

(*) denotes a change/update

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*** F D R E W O F R D**

* The August 2002, (tentative date) third edition, of ETA Handbook No. 408, for the Work Opportunity Tax Credit (WOTC) Program and the Welfare-to-Work Tax Credit (WtWTC) describes and explains the modifications to the WOTC program and a new provision introduced by the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147). Also, this edition includes a series of legislative updates since 1998, policy changes and clarifications to past program practices previously issued as directives to the State Workforce Agencies (SWAs), and a newly revised ETA Form 9058, Report No. 2. The majority of the clarifications and/or new information are the result of the coordinated efforts of the members of a National Work Group, that met twice in the Summer of 2001 to seek ways to simplify and streamline the tax credits' working cycle.

• The Internal Revenue Code of 1986, Section 51, as amended specifies that the "SWAs" are the "designated" agencies responsible for administering the WOTC and WtWTC certification procedures of this program. Also, the program's enacting legislation, the Small Business Job Protection Act of 1996 (P.L. 104-188), defines a "designated local agency (DLA)," as a "State Workforce Agency or SESA --now referred to as the State Workforce Agency or SWA, according to the Workforce Investment Act of 1998-- established by the Wagner-Peyser Act of 1933, as amended. WOTC and WtWTC certification decisions by the SWAs must conform to all Internal Revenue Service rules and regulations (\$51, 51A, and 1400L, Internal Revenue Code) governing the operation of these two tax credits and to the policies and interpretations of the US Employment Service/ALMIS, U.S. Department of Labor (USDOL).

* This third edition reiterates the key role that private sector employers --large, medium and small-sized-- represent for the success of both tax credits. For smaller employers, every new hire represents some investment and high risk on their part since hires from the different targeted groups are viewed as *representing an even higher risk and monetary investment. To this end, the administration of the program should be designed so the two tax credits can be easily obtainable and not impose a significant administrative burden on the participating employers.

* Enhanced quality control designed to promote program integrity remains a primary program objective. DLAs/SWAs have the primary responsibility for quality control and have the flexibility to apply the documentation and verification activities in a manner that is reasonable and consistent with States' resources and the legislative intent of both tax credits.

THE WORK OPPORTUNITY TAX CREDIT PROGRAM

I. BACKGROUND

* A. General The Work Opportunity Tax Credit (WOTC) Program was created by the Small Business Job Protection Act of 1996 (P.L. 104-188) and the Welfare-to-Work Tax Credit (WtWTC) was created by the Taxpayer Relief Act of 1997 (P.L. 105-34). These two tax credits were reauthorized by the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) through December 31, 2001. On December 31, 2001 the credits' legislative authority expired.

* On March 9, 2002 --after a three-month hiatus-- the President signed into law *the Job Creation and Worker Assistance Act of 2002 --the Act--* (Public Law 107-147) reauthorizing and extending the WOTC and WtW tax credits for 24 months, under Sections 51, 51A and 1400L of the Internal Revenue Code (IRC) and creating a new target group under the WOTC program. The new target group is the "New York Liberty Zone Business Employee (NYLZBE) [Recipient]." This target group applies only to those workers and employers (located in the New York City Liberty Zone, South of Canal Street in the Borough of Manhattan) affected by the September 11, 2001 terrorist attack. This reauthorization applies to new hires who begin work, for an employer on or after January 1, 2002 through December 31, 2003.

* The WOTC program was designed to help individuals from certain groups who consistently have had a particularly high unemployment rate. The Act changed the WOTC to a two-tiered credit based on how long the individual is employed. The actual amount of the tax credit depends on several factors, including the target group of the applicant and the amount of wages earned. (For information on the WtWTC see, ~~Chapter IV-1~~).

* There are nine (9) target group designations for the expanded WOTC program. The target group titles and designations are as follows:

- ❖ Qualified IV-A Recipient (A)
- ❖ Qualified Veteran (B)
- ❖ Qualified Ex-felon (C)
- * ❖ EZ/EC/RC High-Risk Youth (D) |
- ❖ Vocational Rehabilitation Referral (E)
- * ❖ EZ/EC/RC Qualified Summer Youth Employee (F) |

- D R A F T**
- ❖ Qualified Food Stamp Recipient (G)
 - ❖ Qualified Supplemental Security Income Recipient (H)
 - * ❖ New York Liberty Zone Business Employee (I)

Under *Tier 1 of the Two-Tier Retention Period* introduced by the Act, before claiming the tax credit, employers must employ the WOTC eligible for at least 120 hours but less than 400 hours to qualify for a credit of 25 percent of up to \$6,000 in wages for a maximum credit of \$1,500. Under *Tier 2*, employers must employ the WOTC eligible for at least 400 hours or more to qualify for a credit of 40 percent of up to \$6,000 in wages for a maximum credit of \$2,400. This is calculated using the actual wages paid or incurred.

- * B. Legislative Authority WOTC/WtW. Sections 604, 605 and 1400L of the *Job Creation and Worker Assistance Act of 2002 (P.L. 107-147)*, March 9, 2002 for the WOTC Program; Sec. 1002 for the WOTC program and 1003 for the WtW Tax Credit of the *Tax and Trade Relief Extension Act of 1998, part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, (P.L. 105-277)*, October 21, 1998; 26 U.S.C. §§51 and 51A; and Sections 51 and 51A of the *Internal Revenue Code of 1986*, respectively, as amended.

C. Legislative Intent.

1. The WOTC was designed to appeal to a wide range of employers, to impose a minimal burden upon participating employers, and to promote the hiring of target group individuals. The Work Opportunity Tax Credit was designed specifically to streamline the eligibility determination process used by previous tax programs as well as to close the gaps that appeared between and within some target group designations.
2. The WtW Tax Credit was designed to appeal to a range of employees, to impose a minimal burden on participating employers, and promote the hiring of long-term welfare assistance recipients. The WtW credit was designed to use the same certification process as is in place for the WOTC target group members.
3. The Departments of Treasury and Labor share administrative responsibility for the WOTC program. Treasury, through the Internal Revenue Service (IRS), administers the tax provisions of the

D R A F T

credit. Labor, through the Employment and Training Administration (ETA), awards grants to States for administration of the eligibility determination and Certification provisions. Certifications are issued by the State Workforce Agencies (SWAs), also known as "Designated Local Agencies (DLAs)" established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n, the "Wagner-Peyser Act"). Where a "SESA, now SWA" no longer exists, and the Employment Service functions traditionally performed by the SWA are incorporated into another State agency approved by the State Legislature, that agency will then be the DLA having approval authority for Certifications.

D. WOTC/WtW and Employment and Training Objectives

1. The WOTC and WtWTC are intended to further the partnership between the employment and training system and the private sector in dealing with problems of the disadvantaged and the unemployed. These two tax credits are significant complements to the welfare reform effort and can be used as incentives for employers to hire regular as well as long-term welfare recipients. DLAs should market WOTC and WtWTCs in this vein.
2. Enhanced quality control designed to promote program integrity remains a primary program objective. The procedures provided in this Handbook are integrated to allow for a standardized, reportable audit system. DLAs have the primary responsibility for quality control and have the flexibility to apply the documentation and verification provisions in a manner that is both reasonable and consistent with State resources and the legislative intent of both the WOTC and the WtW tax credits. The WOTC/WtW audit process will serve as a major basis for assuring program integrity.

* E. Effective Date.

Guidelines in the ET Handbook 408, Third Edition, October 2002 (Tentative Date), are effective upon receipt.

II. WORK OPPORTUNITY TAX CREDIT PROVISIONS

D R A F T

- A. Target Groups At-A-Glance The following pages offer a complete and concise view of modifications to specific target groups, and definitions for the new target group created, one under the WOTC and the three categories of the Long-Term Family Assistance Recipient created also under the Welfare-to-Work Tax Credit, including the specific WOTC/WtW law, target group requirements and information regarding the calculation of the credits.

~~Qualified IV-A Recipient~~
D R A F T
target group designation (A)

This target group refers to any individual who is certified by the Designated Local Agency as being a member of a family:

- ❖ receiving AFDC/TANF, or benefits under a successful program for any 9 months during the 18-month period ending on the hiring date.

~~1. Assistance benefits go to an "assistance unit" in all IV-A programs. Federal regulations at 45 CFR Chapter II, 205.4(b)(1) define assistance unit as "all individuals whose needs, income and resources are considered in determining eligibility for, and the amount of, an assistance payment for which Federal financial participation is claimed under Part A of Title IV of the Social Security Act."~~

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working, at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

2. A IV-A Recipient is, for purposes of the WOTC, a family member who is specifically listed on the grant; only such family members are make the employer eligible to receive the credit. Medicaid and medicare are not IV-A benefits

***3. HHHs Method for Counting Months** - according to the Department of Health, Housing and Human Services, receipt of benefits for as little as one day in a month counts as benefits received for the entire month (i.e, 1 day = 1 month).

~~Qualified Veteran~~
DRAFT
target group designation (B)

This target group refers to any veteran certified by the Designated Local Agency as one who:

- ❖ is a member of a family receiving assistance under a Food Stamp Program under the Food Stamp Act of 1977 for, at least, a 3-month period during the 15-month period ending on the hiring date; (See Section 51(d)(3) of the IRS Code of 1986, as amended)
- ❖ has served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or was discharged or released from active duty in the Armed Forces of the United States for a service-connected disability; and
- ❖ did not have any day during the 60-day period ending on the hiring date which was a day of "extended active duty" in the Armed Forces of the United States. The term "extended active duty" means a period of more than 90 days during which the individual was on active duty, other than active duty for training.

* ❖ Dishonorably Discharged - |

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

~~Qualified Ex-Felon~~
D R A F T
target group designation (C)

This target group refers to any person certified by the Designated Local Agency as one who:

- ❖ has been convicted of a felony under any statute of the United States or any State; and
- ❖ has a hiring date which is not more than one (1) year after the last date on which he/she was so convicted or was released from prison; and
- ❖ is a member of an economically disadvantaged family.

The definition of the Ex-Felon target group has been clarified, in past legislation, to treat an individual as convicted if a State Court places the individual on probation without a finding of * guilty (i.e., deferred adjudication, for definition pls., see p. II-12).

Ex-Felons who are participating in a transitional program; e.g., work release, are eligible for the WOTC program if they were convicted of a felony and are members of an economically disadvantaged family.

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

*** A member of an economically disadvantaged family** means being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics Lower Living Standard Income Levels. In addition, a determination that an individual is a member of an economically disadvantaged family is valid for a 45-day period beginning on the date of the determination.

~~High-Risk Youth~~
DRAFT

- * EZ/EC and Renewal Communities High-Risk Youth
target group designation (D)

This target group refers to any person certified by the Designated Local Agency as one who:

- ❖ is at least age 18, but not yet age 25, on the hiring date; and
- * ❖ has his/her "principal place of abode" within an empowerment zone (EZ), ~~or~~ enterprise community (EC) or renewal community (RC).

* In the case of a high-risk youth, the term qualified wages shall not include wages paid or incurred for services performed while he/she lived outside an EZ, ~~or~~ EC or RC.

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

* Vocational Rehabilitation Referral
target group designation (E)

This target group refers to any person certified by the Designated Local Agency as:

- ❖ having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment; and
- * ❖ was referred to the employer completion of or ~~at any time after, completing~~ or while receiving rehabilitative services pursuant to an individualized written rehabilitation plan (IWRP) under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973; or

* This change allows the State Workforce Agencies or Designated Local Agencies to issue certifications to Vocational Rehabilitation (VR) Referrals for individuals who have received rehabilitation services up to two years after receipt of the last VR services.

Note: Title IV. "Technical Corrections," Section 4006, "Other Amendments," of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (P.L. 105-277), under (c)"Clerical Amendments," states the following:

(1) Clause (i) of section 51(d)(6)(B) of the 1986 [Internal Revenue] Code is amended by striking "rehabilitative plan" from the [individualized written ~~rehabilitation plan~~ (IWRP)] and inserting "plan of employment." It should read, "individualized written plan for employment," instead. (For legislative language see Appendix I. Conference Report to H.R. 4328, Making Omnibus Consolidated and Emergency Appropriations for Fiscal Year 1999, p. 944)

- ❖ a vocational rehabilitation program for veterans, carried out under Chapter 31 of Title 38, U.S. Code.

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400. This allows a maximum credit of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

- ~~D R A F T~~**
- * Qualified Summer Youth Employee
 - EZ/EC and Renewal Community Summer Youth Employees |
target group designation (F)

This target group refers to any person certified by the Designated Local Agency as one who:

- ❖ performs services for the employer between May 1 and September 15; and
- ❖ has attained age 16, but not yet age 18, on the hiring date or, if later, on May 1 of the calendar year involved; and
- ❖ has not been employed by the same employer pr the 90-day (summer) period between May 1 and September 15; and
- * ❖ has her/his "principal place of abode" within an empowerment zone, ~~or~~ enterprise community, or renewal community (RC). In the case of a summer youth, the term qualified wages shall not include wages paid or incurred for services performed while he/she lived outside of the zone.

- * Special Rule for Continued Employment - |

The tax credit for this target group is calculated at a rate of 25% of the qualified first year's wages up to \$3,000. This allows a maximum credit amount of \$750. For those employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified wages up to \$3,000 for a maximum tax credit of \$1,200.

D R A F T
 * Qualified Food Stamp Recipient
 target group designation (G)

This target group refers to any person certified by the Designated Local Agency as one who:

❖ has attained the age of 18, but not yet as of the hiring date; and

❖ is a member of a family:

- receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date; or

- * ● receiving such assistance for at least 3 months of the 5-month period ending on the hiring date, in the case of an able-bodied adult without dependents who ~~ceases to be eligible for food stamps under the work requirements at Section 6(o) of the Food Stamp Act of 1977.~~ has been determined ineligible to participate in the Food Stamp Program as the result of a failure to comply with the work requirements of section 6(o) of the Food Stamp Act of 1977.

- * ● **Note:** An "able-bodied adult without dependents" is an individual who is subject to section 6(o) of the Food Stamp Act (see below). To comply with the requirements of section 6(o), an individual must (A) work 20 hours or ore per week, averaged monthly; (B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the SESA or DLA; or (C) participate in and comply with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State.

- * An individual is subject to section 6(o) of the Food Stamp Act if he or she satisfies the following: (a) is at least age 18 but not 25, (b) is physically and mentally fit for employment, (c) is not responsible for a dependent child, (d) is not pregnant, (e) is not exempt from any of the requirements listed here because pf geography or a state's

D R A F T
discretion, and (f) does not meet any of the following exceptions: (1) complies with the work requirements of Title V of the Social Security Act, (2) receives unemployment compensation, (3) is a drug or alcohol center participant, or (4) is an eligible student.

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

Qualified Supplemental Security Income (SSI)
D R A F T
Recipient
target group designation (H)

This target group refers to any individual who is certified by the designated local agency as being an individual who is:

- ❖ receiving supplemental security income benefits under Title XVI of the *Social Security Act* (including benefits of the type described in Section 1616 of the *Social Security Act* or Section 212 of Public Law 93-66) for any month ending within the 60-day period ending on the hiring date.

Note. Social Security Disability Income (SSDI) Recipient is not the same as Supplemental Security Income (SSI) Recipient.

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

New York Liberty Zone Business Employee (NYLZBE)
target group designation (I)

This target group refers to:

- a) individuals who perform substantially all their services in the recovery zone for a business located on or South of Canal Street, East Broadway (East of its intersection with Canal Street), or Grand Street (East of its intersection with East Broadway) in the Borough of Manhattan, New York, New York (the New York Liberty Zone), or
- ❖ b) individuals who perform substantially all their services in New York City for a business that relocated from the New York Liberty Zone elsewhere within New York City due to a physical destruction or damage of their workplaces by the September 11, 2001 terrorist attack.

The tax credit for this target group is calculated at the rate of 25% of the qualified first-year wages up to \$6,000 for employees working at least 120 hours but less than 400 hours. This allows a maximum credit amount of \$1,500. For employees working at least 400 hours or more, the credit is calculated at the rate of 40% of the qualified first-year wages up to \$6,000. This allows a maximum credit amount of \$2,400.

* B. Essential Terms **D R A F T**

Agency Declaration of Verification Results (ETA 9065) is an optional USDOL-ETA form for DLA use only to record the results of verification activities conducted by the DLA. If the DLA elects to use an alternative form to record verification results, the alternative form must contain all of the information that appears on ETA Form 9065.

Audit means the post-issuance examination, performed on a quarterly basis by someone other than the person who approved the Certification, of a prescribed random sample of Certifications and supporting documentation.

Certification (ETA 9063) is an optional form issued to an employer by a DLA, which certifies that the person named on the Certification was determined to be a member of a WOTC target group, a long-term Family Assistance Recipient, or both and will, therefore, qualify the specified employer, who receives the certification, to claim the appropriate tax credit for qualified wages paid to that person upon completion of the minimum employment period.

Conditional Certification (ETA 9062) is a required form (formerly called a voucher) issued by a DLA or a participating local agency to an eligible WOTC applicant before the applicant is hired. This is done to assist the applicant in his or her job search. These documents are time-limited and require that the applicant still meets all eligibility criteria at the time of hire. Additionally, the employer must return the document accompanied by an IRS Form 8850 to the DLA not later than the 21st day following the individual's employment start date.

Deferred Adjudication occurs when an individual is accused of a felony and a State Court places the individual on probation without a finding of guilty. For WOTC purposes, this judgement is treated as a conviction. This qualifies an individual for the Ex-felon target group. Not all State judicial systems use "deferred adjudication," although all procedures placing accused felons on probation without a finding of guilty should be considered "deferred adjudication" for WOTC purposes.

Designated Local Agency (DLA) means a State Workforce Agency (SESA) or the agency established in accordance

with the Wagner-Peyser Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

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Employer Representative means a person authorized to act on behalf of any employer in the WOTC Certification process; e.g., a management consultant, accountant, or contractor. For this purpose, a valid Form 2848, Power of Attorney and Declaration of Representative, to execute Form 8850 or otherwise represent the employer is acceptable."

Employment Starting Date is the date the person actually begins working for the employer. This may be, but is not necessarily, the same as the "hiring date". The start date is the date that is critical when determining timeliness of mailing the Pre-Screening Notice (PSN).

* **Empowerment Zone/Enterprise /Renewal Community** refers to an area or combination of areas designated by the U.S. Housing and Urban Development (HUD) and/or the United States Department of Agriculture (USDA) that meet certain population, size and poverty criteria. This definition does not include champion communities.

* **Extended Active Duty** means a period of more than 90 days during which the person was on active duty (other than U.S. Military active duty for training). Persons who were dishonorably discharged from military service are included if they meet the eligibility requirements of a targeted group.??? This legislation does not change the veterans' definitions for other employment and training programs administered by the Department of Labor.

Family/Member of a Family - The definition of a family/member of a family depends on the particular targeted group for which a person will be certified.

Family/Member of a Family Receiving Food Stamps (i.e., Food Stamp Recipient) refers to a member of a certified food stamp "household" (including households certified to participate under a Simplified Food Stamp Program), regardless of whether the individual is currently an "ineligible household member" or whether the household has actually received its benefits. State agencies need not concern themselves with whether the individual is a member of a "family" because information that might be germane to whether a group of people constitutes a "family" is not required to be collected in the determination of a household's eligibility or benefit level for the Food Stamp Program. Note. To be "a member

of a family receiving Temporary Assistance to Needy Families (TANFs)/AFDC, or a successor program," a job applicant must be listed on the grant.

- * **IV-A Successor Program** includes Temporary Assistance for Needy Families (TANF) or any program enacted by the Congress to replace it.

Hiring Date is the date that a definite oral or written agreement to employ is reached between a jobseeker and a prospective employer, in which an employment starting date is specified.

Individual Characteristics Form is form ETA 9061 which identifies applicants' categories of eligibility.

Member of a Target Group means any person who meets the eligibility criteria for one of the eight (8) WOTC target groups.

Minimum Employment Period refers to the minimum number of hours an employer must retain a WOTC hire to get the credit. Before claiming the credit, an employer must employ the WOTC eligible for a minimum of 400 hours of service in order to qualify for the 40-percent credit or 120-399 hours in order to claim the 25-percent credit. This is also referred to as the "retention period". No credit is available for any employee who works less than 120 hours.

Non-Certified Individual means an individual who has not been previously certified eligible as a member of a target group, by a participating, qualified certifying WOTC agency. Requests for certification, in writing (i.e., IRS Form 8850 "Pre-Screening Notice and Certification Request), by an employer, for "non-certified" individuals must be received at the Designated Local Agency or submitted within 21 days of the employment start day.

Participating Local Agency is an organization authorized via a Memorandum of Understanding or Cooperative Agreement with the DLA to issue Conditional Certifications for members of specified target groups.

Pre-Screening Notice & Certification Request (PSN/CR) is the IRS Form 8850 completed "on or prior to" the job offer date indicating an applicant's potential eligibility for a target group. The IRS 8850 Form must be submitted no later than the 21st day after the employment start date.

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Principal Place of Abode is that place where one physically lives while earning wages from an employer.

Qualified Ex-Felon is an individual that is an ex-felon and is determined to be economically disadvantaged, as defined in Part II, Section A of the Handbook, and based on considerations of "*family*," "*family size*," and "*family income*." These terms are defined below.

For the purposes of the ex-felon target group under WOTC, a **family** is: --

- a. one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent is considered to be related by marriage;
- b.
 - (1) for purposes of paragraph "a." above, one or more persons not living in the single residence, but who were claimed as "dependents" on another person's Federal Income Tax return for the previous year, may be presumed, unless otherwise demonstrated in a manner satisfactory to the DLA (but not including self-attestation), to be part of the other person's family;
 - (2) an older worker, 55 years of age or older, whether living in the residence or not, or a handicapped individual 16 years of age or older, may be considered a "family of one;"
 - (3) a person 18 years or older, except as provided in (2) above, including students at college, may be determined to be a "family of one" if he/she can demonstrate, in a manner satisfactory to the DLA, that he/she received less than 50 percent of support from the family during the months used for establishing economic eligibility, and who is not the principal earner, nor the spouse of the principal earner. This may be done even if the person was claimed as a dependent on another person's tax return for the previous year.
 - (4) In some instances, an individual who is separated from a spouse may be considered a "family of one" if the absent spouse lives

apart and provides no assistance to the applicant.

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Family Size is the maximum number of family members during the income determination period.

Family Income means all income actually received from all sources by all members of the family (as defined above), during the income determination period. The following examples of "includable" income and "excludable" income are to be used in determining economic eligibility for the Ex-Felon Target Group only:

"Includable" Income:

- a. Gross wages and salary (before deductions);
- b. Net self-employment income (gross receipts minus operating expenses);
- c. Money income received from other sources such as:
 - net rents;
 - Old Age and Survivors Insurance (OASI) benefits under Title II of the Social security Act;
 - pensions;
 - alimony; and
 - periodic lifetime income from insurance policy annuities, (if not precluded below).

"Excludable" Income:

- a. Non-cash income such as food stamps, energy assistance or compensation received in the form of food or housing;
- b. Imputed value of owner-occupied property, i.e., rental value;
- c. Public assistance payments, including vouchers or scrip;
- d. Cash payments received pursuant to a State plan approved under Title I (*Grants to States for Old*

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Age Assistance and Medical Assistance for the Aged), Title IV (Grants to States for Aid and Services to Needy Families With Children and for Children Welfare Services), Title X (Grants to States for Aid to the Blind), Title XVI (Supplemental Security Income (SSI) for the Aged, Blind and Disabled), of the Social Security Act;

e. Disability insurance payments received under Title II (*Federal Old Age, Survivors, and Disability Insurance Benefits*), of the Social Security Act; and disability insurance payments received under Title IV (*Black Lung Benefits*) of the Federal Coal Mine Health and Safety Act;

f. Child support;

g. Federal, State or local unemployment insurance payments;

h. Payments to participants in employment and training programs, except wages paid for Federal OJT;

i. Uncollected capital gains and losses and assets withdrawn from a bank account;

- j. One-time unearned income, such as, but not limited to:
- Payments received for a limited fixed term, i.e., for a set period or length of time, under income maintenance programs and supplemental (private) unemployment benefits' plans;
 - One-time or fixed term scholarships and fellowship grants, e.g., a fixed-term scholarship may include Financial Aid granted for either one or two consecutive semesters);
 - Accident, health and casualty insurance proceeds;
 - Disability and death payments, including fixed-term (but not lifetime) life insurance annuities and death benefits;
 - One-time awards and gifts;

- ~~Inheritance, including fixed-term annuities;~~
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 - Fixed-term worker's compensation awards;
 - Terminal leave payments;
 - Soil bank payments;
 - Agriculture crop stabilization payments;
 - Alaska oil trust fund disbursements for economic development; and
 - Gambling.
- k. Pay or allowance which were previously received by any ex-service person while serving on active duty in the Armed Forces (this does not include National Guard or Reserve pay for training or active duty for training);
- l. For veterans, the following income also is excluded: Amounts received as pay or allowance while serving on active duty in the Armed Forces; and educational assistance and compensation payments to veterans and other eligible persons under Chapter 11 (*Compensation for Service Connected Disability or Death*), Chapter 13 (*Dependency and Indemnity Compensation for Service Connected Death*), Chapter 31 (*Vocational Rehabilitation*), Chapter 34 (*Veteran's Educational Assistance*), Chapter 35 (*War Orphan's and Widow's Educational Assistance*), and Chapter 36 (*Administration of Educational Benefits*), of Title 38 U.S.C.; and
- m. Payments received under the Trade Act of 1974 and any amendments.

Qualified Veteran is a individual who is a veteran as defined in Part II, Section A of the Handbook.

Quality Review means the review of WOTC forms and other documents, including the Certification itself, to ensure that the required information is complete, consistent and accurately recorded. Quality reviews are performed at several key points in the eligibility determination and Certification process.

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Two-Tier Employment Retention Period (also referred to as the "minimum employment retention period") refers to the minimum number of hours an employer must retain a WOTC hire to get the credit. Under **Tier 1**, before claiming the tax credit, employers must employ the WOTC eligible for, at least 120 hours but less than 400 hours to qualify for a credit of 25 percent of up to \$6,000 in wages for a maximum credit of \$1,500. Under **Tier 2**, employers must employ the WOTC eligible for at least 400 hours or more to qualify for a credit of 40 percent of up to \$6,000 in wages for a maximum credit of \$2,400. The tax credit is calculated using the actual wages paid or incurred.

Verification means the process of ensuring or testing the validity of all Certifications issued by the DLA, including preliminary eligibility and other supporting documentation. The verification process includes "Quality Reviews" and "Audits".

Work Release is a State-approved transitional program, usually commencing not earlier than 12-months prior to release, which prepares a felon for return to mainstream society. Work release may include work inside or outside the institution. Work release felons may be eligible for the qualified ex-felon target group.

Except for work releases, persons currently incarcerated are not eligible for the program because they are not considered available for employment. Individuals convicted of a felony while in military service may also be eligible under the ex-felon target group.

III. QUALIFIED WAGES AND SPECIAL RULES

- A. Qualified Wages. The Work Opportunity Tax Credit is figured only on qualified first-year wages paid or incurred to target group individuals who begin work for the employer after June 30, 1998 and before July 1, 1999.

In general, "qualified wages" for WOTC purposes means "wages" as defined by the Internal Revenue Code (IRC), Section 3306 (b).

1. Wages generally mean all remuneration paid for employment, including non-monetary payments; e.g., room and board provided by the employer. To figure the credit, use "wages" as defined in Section 3306 (b) of the Federal

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Unemployment Tax Act (FUTA) (determined without regard to any dollar limitation contained in such section).

2. Qualified First-Year Wages are wages that an employee earns during the one-year period which begins the day the employee starts work. The maximum amount of wages to which the 25 or 40 percent credit may be applied shall not exceed \$6,000 of first-year wages for all target groups, except qualified summer youth, which may not exceed \$3,000.
3. Qualified Summer Youth Wages. The maximum amount of wages to which the credit may be applied shall not exceed \$3,000 of first-year wages for the qualified summer youth group (between May 1 and Sept. 15).
4. Eligibility of Resident Aliens and Non-Citizens. Although an individual does not have to be a United States citizen; e.g., a resident alien to be a target group member, the employee's "citizen status" may affect whether wages paid to the individual are "qualified wages" for claiming the tax credit under the WOTC program.

For purposes of that section and the WOTC program, there are two situations in which remuneration for services is "wages" for United States citizens, but is not "wages" if the employee is not a United States citizen. They are as follows:

- a. Remuneration for services performed outside the contiguous United States, Alaska and Hawaii; e.g., Puerto Rico is "wages, only if performed by a United States citizen or by a Resident Alien for an American employer. Remuneration for services performed for an American employer outside the United States by an individual who is not a United States citizen or resident alien is not "wages".
- b. Remuneration paid for services performed by a non-resident alien individual who has a (J) visa for the period he/she

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lives temporarily in the United States as a non-immigrant under subparagraph (J) of Section 101 (a)(15) of the Immigration and Nationality Act as amended [8 U.S.C. 1101 (a)(15)(J)], and performed as specified in subparagraph (J), as the case may be, is not "wages".

- c. Thus, for purposes of the WOTC program the credit cannot be extended to an employer on wages paid to the nonresident employees referenced above if Federal employment taxes are not withheld. **Note.** In the case of the Commonwealth of Puerto Rico, employers who have a Federal income tax liability are eligible to participate in the WOTC program and as such are eligible to claim the WOTC and/or the WtW tax credit(s) provided they meet all the participating and timeliness requirements.

5. Agricultural and Railroad Employees. A different wage definition applies to certain agricultural and railroad employees.

a. Agricultural Employees.

(1) Qualified Wages. If, in any year a WOTC eligible employee performs services that qualify during more than half of any pay period as agricultural labor for FUTA, use the same wages that are subject to the Social Security Tax (FICA) to figure the credit for that employee. Count only the first \$6,000 of the employee's FICA wages for the calendar year. (A pay period is 31 consecutive days or less during which the employer ordinarily pays wages to the employee.)

(2) Farm Labor Contractors. Except in cases where the farmer/grower pays wages directly to the laborers, the farm labor contractor is the employer and is; therefore, entitled to the tax credit on WOTC

D R A F T certified laborers, if the contractor has his/her own IRS employer identification number.

- (3) Non-Eligibility of H-2A Workers. H-2A workers should not be considered to receive "wages" as defined within the meaning of Sec. 3121(a), and employers of these workers are not eligible for Certifications from the DLAs for employment of such H-2A workers.

b. Railroad Employees. If more than half of the wages paid to an employee during any year qualify under the Railroad Unemployment Insurance Act (RUIA), figure the credit by using wages subject to RUIA tax, but without RUIA dollar limitations.

6. Trade or Business Employment Wages. To claim the credit on an employee's wages, over half of those wages paid during any tax year must be earned by the employee in an employer's trade or business. Therefore, maids, chauffeurs and other employees who work only in the home are not qualified for the WOTC.
7. On-the-Job Training Payments. If, for any period, an employer receives Federally funded payments for on-the-job training (OJT) for an employee, none of the wages paid to that employee for the OJT period qualify for the WOTC.

While the wages paid to the employee during the OJT period do not qualify the employer for a tax credit, the time spent by the employee receiving on-the-job training qualifies the employer towards fulfilling the minimum employment period requirement (or retention period).

Exception: An employer, while participating in the Veterans-OJT program under Title 38 USC, may claim the WOTC on qualified wages paid to certified employees because training assistance payments under this program are paid to the employee and not to the employer.

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Example: On January 1, 1997, a certified member of a targeted group begins work. From January 1 through March 31, 1997, the employee received on-the-job training, and the employer received Federally funded payments for the on-the-job training for that period. In computing the Work Opportunity Tax Credit, an employer cannot use as qualified wages any wages earned by that employee for services between January 1 and March 31, 1997.

However, the one-year WOTC eligibility period is calculated from January 1 and a Pre-Screening Notice for Certification must have been postmarked not later than January 22, 1997 for the employer to be subsequently eligible for the remainder of the year's credit. The retention period begins January 1, 1997. Wages paid for services from April 1, 1997 through December 31, 1997 are qualified wages. Wages earned during the OJT contract period do not count toward the \$6,000 limit on wages.

8. Work Supplementation Payments. The amount of wages (which would otherwise be qualified wages) is reduced by the amount of any payments received by the employer with respect to the employee under a program established under Section 482(e) of the Social Security Act.

B. Special Rules - Tier 1.

1. Credit Allowed. Credit allowed for the tax year is twenty-five (25) percent of the qualified wages up to \$6,000 (\$3,000 for Summer Youth) for that year.

Example 1. On October 1, 1997, a member of a target group begins work for a calendar-year taxpayer. In 1997, the employee is paid \$5,000 in wages. Under *Tier 1*, the Work Opportunity Tax Credit for 1997 is \$1,250 if this employee worked, at least 120 hours for this employer; i.e., 25 percent of \$5,000. See Table which follows.

TIER 1	
Qualified first-year wages:	\$5,000
Oct. 1 - December 31, 1997	
Multiplied by 25 percent	.25

WOTC Credit for 1997: D R A F T \$1,250

Qualified wages in 1998 eligible for the 25 percent credit are limited to \$1,000; that is, \$6,000 less \$5,000 paid in 1997. The amount of tax credit for 1998 is limited to \$250; i.e., \$1,000 x 25 percent.

Example 2: Assume facts in Example 1. For services from January 1, 1998 through March 31, 1998, the employee is paid \$3,000; i.e., for the remainder of the year. Figure the tax credit for 1998 as follows:

Actual wages 1/1-3/31, 1998 =	\$3,000
Qualified wages: (1/1-3/31/98)	\$1,000
Multiplied by 25 percent	<u>.25</u>
Total WOTC Credit 1998	250
Total WOTC Credit 1997	<u>+1,250</u>
Total WOTC for Exs. 1 & 2	\$1,500

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C. Special Rules - Tier 2

1. Credit Allowed. Credit allowed for the tax year is forty (40) percent of the qualified wages for that year.

Example 1. On October 1, 1997, a member of a target group begins work for a calendar-year taxpayer. In 1997, the employee is paid \$5,000 in wages. Under *Tier 2*, the WOTC is \$2,000 if the employee worked 400 hours or more for this employer; i.e., 40 percent of \$5,000. See Table which follows.

TIER 2	
Qualified first-year wages:	\$5,000
October 1 - December 31, 1997	
Multiplied by 40 percent	<u>.40</u>
WOTC Credit for 1997:	\$2,000

Qualified wages in 1998 eligible for the 40 percent credit are limited to \$1,000; that is, \$6,000 less \$5,000 paid in 1997. The amount of tax credit for 1998 is limited to \$400; i.e., \$1,000 x .40.

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Example 2: Assume facts in Example 1. For services from January 1, 1998 through March 31, 1998, the employee is paid \$3,000; i.e., for the remainder of the year. Figure the tax credit for 1998 as follows:

Actual wages 1/1-3/31, 1998 =	\$3,000
Qualified wages: (1/1-3/31/98)	\$1,000
Multiplied by 40 percent	<u>.40</u>
Total WOTC Credit 1998	400
Total WOTC Credit 1997	<u>2,000</u>
Total WOTC for 1997 & 1998	\$2,400

NOTE: For certified employees who complete their minimum work requirement after the end of the employer's tax year but before the due date (including extensions) for the employer's federal income tax return for the tax year in which the employee began work, the employer may claim the credit at the appropriate rate, i.e., 25 percent (120-399 hours) or 40 percent (400 or more hours) even though all those hours were not worked until the succeeding tax year.

2. Tax Liability Limitation. The WOTC, as a component of the general business credit, is subject to the net tax liability limitation of Section 38 of the Internal Revenue Code and the carryback and carryover rules of Section 39.
3. Carryback and Carryover of Unused Credits. If, because of the tax liability limitation, an employer does not take the full amount of the WOTC credit arising in a taxable year beginning before January 1, 1998, he/she may claim a refund of all or part of the taxes paid in the three taxable years before the year the credit arose. This can be done by carrying back the unused credit to the earliest of the last three tax years, then to the second earliest, and so on. Any credit that **cannot** be taken in these years may be taken on future tax returns for 15 years or until the credit is all used, whichever comes first. If a WOTC or WtW tax credit arises in a taxable year beginning after December 31, 1997, the credit may be carried back one year and forward 20 years.
4. Limitation on Unused Credit in a Carryback or Carryover Year. Unused WOTC credits that can be taken in a carryback or carryover year cannot be more than the tax liability limitation for that year, less any WOTC tax credit that is:
 - a. earned in the carryback or carryover year, or

- b. claimed in the carryover year from a year earlier than the current year.

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Caution: [Internal Revenue] Code Section 39(a), below, as amended by the Taxpayer Relief Act of 1997 (P.L. 105-34) applies to credits arising in tax years beginning after December 31, 1997.

5. (a) In General--

(1) 1-YEAR CARRYBACK AND 20-YEAR CARRYFORWARD. If the sum of the business credit carries forward to the taxable year plus the amount of the current year business credit for the taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the "unused credit year"), such excess (to the extent attributable to the amount of the current year business credit) shall be:

(A) a business credit carryback to each of the 1 taxable year(s) preceding the unused credit year, and

(B) a business credit carryforward to each of the 20 taxable years following the unused credit year, and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account by the provisions of section 38(a) in the manner provided in section 38(a).

(2) AMOUNT CARRIED TO EACH YEAR--

(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR. The entire amount of the unused credit year shall be carried to the earliest of the 22 taxable years to which (by reference to paragraph (1)) such credit may be carried.

(B) AMOUNT CARRIED TO OTHER 21 YEARS. The amount of the unused credit shall be carried to each of the other 21 years to the extent that the credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c). (For legislative language see Appendix I. Internal Revenue Code of 1986, as amended, Sec. 39(a), "Income Tax--Unused Credits--Carryback/Carryforward," p. 4355)

6. Nepotism.

- a. No WOTC tax credit can be claimed for wages paid to relatives employed by a taxpayer-employer. The tax credit is not valid if the employer/employee relationship is any of the following:

- (1) A son or daughter of the employer or descendant of a son or daughter;

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- (2) A stepson or stepdaughter of the employer;
 - (3) A brother, sister, stepbrother, or stepsister of the employer;
 - (4) A father or mother of the employer, or an ancestor of either;
 - (5) A stepfather or stepmother of the employer;
 - (6) The nephew or niece of the employer;
 - (7) The uncle or aunt of the employer; or,
 - (8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the employer.
- b. Also excluded is an employee who is a dependent of the employer who lives in his/her home, and is a member of the employer's household.
- c. This rule also applies if the individual who is a member of a targeted group is:
- (1) The employer; i.e., self-employed;
 - (2) A shareholder who owns more than 50 percent of the value of the outstanding stock of the employing corporation;
 - (3) A beneficiary, grantor, or fiduciary of the employing estate or trust;
 - (4) A member of an employing partnership; or,
 - (5) A shareholder in a Subchapter S corporation that is the employer.
- d. In addition, an employee of an estate or trust is not eligible for the credit if he or she is a grantor, beneficiary or fiduciary of the estate or trust.

* 7. Non-qualifying Rehires. A person shall not qualify an employer for the tax credit if, prior to the hiring date, the person was employed by the employer at any time during which he/she was not a member of a targeted group. The person must have been WOTC-qualified and certified as such only the first time she/he was hired by a particular employer.

8. Breaks in Employment. A WOTC-certified individual may experience one or more breaks in employment; i.e., be laid off or quit and be re-hired by the same employer, and continue to qualify his/her employer for the tax credit. However, the employer may take the credit only on wages paid during the one

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year period (or 90-day period for qualified summer youth) beginning on the employment starting date, including any breaks in employment. In determining whether an employee satisfies the "minimum retention" period of employment, the employer totals the cumulative days or hours the employee actually worked for the employer during the employee's first year of employment.

9. Successor Employers. If an employer acquires substantially all the property used in the business, or a separate unit of the business of another employer, the Work Opportunity Tax Credit that can be taken on employees (of that employer) who continue work for the new successor employer, may be limited. Credit must be computed under section 51(k)(1), with respect to wages paid by such successor employer in the same manner as if such wages were paid by the predecessor employer. This means that the successor employer is entitled to claim only the remaining balance of the credit.

Example: A worker receives \$2,000 in wages from the predecessor employer and subsequently receives \$4,000 in wages for the successor employer within one year from the date the worker started work for the predecessor employer; the successor employer may compute his credit on only \$4,000.

IV. THE WELFARE-to-WORK TAX CREDIT

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BACKGROUND

- A. General. The Welfare-to-Work (WtW) Tax Credit was created by the Taxpayer Relief Act of 1997 --the Act-- (Public Law 105-34). The effective date for the WtW Tax Credit is January 1, 1998. It has been authorized for 18 months ending on June 30, 1999.

The new tax credit, added by Section 801 of the Act, is available to employers who hire individuals certified by the DLA/SESA as *Long-Term Family Assistance Recipients*. The credit is effective for wages paid to individuals who begin work after December 31, 1997, and before July 1, 1999.

The amount of the credit is 35 percent of qualifying first-year wages and 50 percent of qualifying second-year wages. For this purpose, wages include amounts excludable from income relating to amounts received under accident and health plans, amounts relating to contributions by the employer to accident and health plans, educational assistance programs, and dependent care assistance programs. Up to \$10,000 of wages, per year, paid to these individuals may be considered in determining the amount of the Welfare-to-Work tax credit.

- * B. Legislative History. Section 801 of the Taxpayer Relief Act of 1997 (Public Law 105-34); Section 51A of the Internal Revenue Code of 1986, as amended; and Section 1003 of the Tax and Trade Relief Extension Act of 1998 (P.L. 105-277).

V. WELFARE-TO-WORK TAX CREDIT NEW PROVISIONS

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- A. Group At-A-Glance. The following pages offer a complete and concise view of the group created by this Act, including the definition, the specific WtW Tax Credit law, and the group's requirements.

* Long-Term Family Assistance Recipient
group designation (I)

This group refers to any recipient certified by the Designated Local Agency as one, who is a member of a family that:

- ❖ has received family assistance (i.e., AFDC/TANF or a successor program) for at least 18 consecutive months ending on the hiring date; or
- * ❖ has received family assistance for a total of at least 18 months (whether or not the 18 months are consecutive) beginning after the day of enactment (i.e., August 5, 1997), and has a hiring date that is not more than two years after the end of the earliest 18-month period; or
- * ❖ whose AFDC/TANF eligibility expired under a Federal or State law after the day of enactment (i.e., August 5, 1997), for applicants hired within two years after their eligibility expired.

TANF means *Temporary Assistance to Needy Families*.

- A. **Minimum Employment Period** refers to the minimum number of hours and days an employer must retain the WtW hire to get the credit. Before claiming the credit, an employer must employ the WtW eligible for a minimum of 180 days or 400 hours of service.
- B. **Qualified First-Year Wages** are wages that an employee earns during the first-year period, which begins the day the employee starts work. The maximum amount of wages to which the 35 percent credit may be applied during the first year shall not exceed \$10,000 for a maximum credit of \$3,500.
- C. **Qualified Second-Year Wages** are wages that an employee earns during the second-year period. During the second year, the maximum amount of wages to which the 50 percent may be applied shall not exceed \$10,000 for a maximum credit of \$5,000. Under the WtW, employers can claim up to \$8,500 of combined tax savings per new hire.
- D. **Certification Process.** Before claiming the Welfare-to-Work credit, an employer must obtain certification of a

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worker's eligibility as a member of a family receiving long-term family assistance benefits/payments. SWAs are the "designated local agencies" responsible for issuing the required certification. The rules for certifying a worker as a *Long-Term Family Assistance Recipient* are the same as the rules for certifying target group membership under the WOTC. Also, the rules governing who is ineligible under the WOTC are the same for Long-Term Family Assistance Recipients.

There are two ways an employer can satisfy the requirement to obtain a certification that a worker is a member of a targeted group. The employer can, either:

- a) obtain a certification from the DLA/SESA, on or before the day on which the individual begins work, stating that the individual belongs to a targeted group, or
- b) complete a "Pre-Screening Notice" (IRS Form 8850) with respect to the prospective employee on or before the day the individual is offered employment.

Within 21 days after the individual begins work, the employer submits IRS Form 8850, to the SESA, as part of his request for certification.

- E. **Coordination of the WOTC and the Welfare-to-Work Tax Credit.** The WtW is coordinated with the WOTC so that in any one taxable year an employer cannot claim both credits with respect to the same individual.

For Example: Assume that an individual begins work on March 1, 1998, and works at least 400 hours for an employer whose taxable year is the calendar year. The employer pays "first-year wages" from March 1998, through February 1999, and pays "second-year wages" from March 1999 through February 2000. If the individual is certified as both a member of one of the WOTC target groups and as a *Long-Term Family Assistance Recipient* and the requirements for both credits are otherwise satisfied, the employer will have the following two choices:

For 1998, the employer may claim either the WOTC (40 percent of wages paid up to \$6,000) or the Welfare-to-Work tax credit (35 percent of wages paid up to \$10,000).

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For 1999, the employer may choose again, which credit to claim. The WOTC would be based solely on the amount of first-year wages (up to the \$6,000 limit) paid in 1999 during the balance of the first employment year (i.e., January and February 1999). The WtW tax credit would have two components: #5 percent of the amount of first-year wages (up to \$10,000 limit) paid in January and February 1999, and 50 percent of the amount of second-year wages (up to a separate \$10,000 limit) paid in March through December 1999.

For 2000, the employer could claim only the Welfare-to-Work tax credit based on the amount of "second-year wages" (up to the second \$10,000 limit) paid in wages in January and February 2000.

The Secretary of Labor, through the ETA and the Secretary of Treasury, through the IRS have the same responsibilities as under the WOTC.

VI. ROLES AND RESPONSIBILITIES

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A. Federal Level

1. The Employment and Training Administration (ETA) and the Internal Revenue Service (IRS) have a Memorandum of Understanding (MOU) which delineates the responsibilities of each agency in conducting the WOTC program and the WtW Tax Credit.
2. Department of Treasury. The Department of Treasury, the lead agency for the WOTC/WtW program, administers the tax credits' provisions through the IRS. The IRS:
 - a. Has the sole responsibility for design and issuance of the Pre-Screening Notice IRS 8850 Form.
 - b. Is the sole source of policy interpretations or rulings relating to tax provisions of the credits.
 - c. Develops tax credit regulations, as needed, and related informational materials for employers.
 - d. Reviews ETA policies and information materials for the WOTC program and WtW tax credit and participates in designing the Certification and verification system.
3. U.S. Department of Labor. The U.S. Department of Labor, through ETA, has the authority and responsibility for:
 - a. Developing policy and program guidance for WOTC/WtW Certification and verification systems, in collaboration with the IRS, to assure proper administration of the tax provisions, including maintaining and distributing WOTC/WtW forms.
 - b. Providing interpretations of national policy and guidance as they affect WOTC/WtW Certification and verification.

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- c. Managing, providing oversight of, and issuing basic operating guidelines for the WOTC program. This includes:
 - (1) Resolving policy issues raised at the National and Regional levels;
 - (2) Disseminating nationally-determined policy and procedural decisions in a uniform manner;
 - (3) Overseeing program implementation at the Regional level, including, but not limited to:
 - (a) Ensuring that policies and procedures are disseminated to the States in a timely and effective manner;
 - (b) Participating in Regional on-site reviews of State operations to ensure uniformity and adherence to policy.
 - (4) Tracking, reviewing, and keeping Regions apprised of pending and recently enacted legislation which has an actual or potential impact on the WOTC program;
 - (5) Providing national program statistics to the Regions and States on a regular basis and other agencies and individuals, as requested;
 - (6) Allocating appropriated funds for program operations to the Regions for allocation to the States;
 - d. Developing agreements with other Department of Labor components, as well as other Federal agencies and national organizations;
 - e. Reporting annually to the Congress on the results of verification activities carried out by the States; and
 - f. Performing other functions as necessary to properly and efficiently administer the WOTC program and the WtW Tax Credit.

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4. Other Federal Agencies. ETA also is negotiating Memoranda of Understanding with other Federal agencies for administering the WOTC program and the WtW. The following Federal agencies/programs have entered or will enter into agreements with ETA which address cooperation in eligibility determinations and Conditional Certifications, development and/or distribution of information on WOTC/WtW:

- ❖ Department of Treasury
- ❖ Department of Veterans Affairs
- ❖ Rehabilitation Services Administration
- ❖ Department of Health and Human Services
- ❖ Department of Agriculture
- ❖ Department of Housing and Urban Development
- ❖ Job Corps
- ❖ Social Security Administration
- ❖ One-Stop Career Centers

*

5. ETA Regional Offices. ETA Regional Offices are responsible for ensuring that the DLAs follow prescribed standards and requirements for administering the WOTC program and the WtW tax credit. Regional Administrators are responsible for:

- a. Designating a Regional Coordinator for WOTC/WtW to direct and assist the DLAs in administering the WOTC program and the WtW Tax Credit;
- b. Ensuring that there is a WOTC/WtW Coordinator in each State, and that State and Regional staff are adequately trained;
- c. Ensuring that the DLAs are provided all ETA guidance and instructions on the two tax credits;
- d. Ensuring that the DLAs implement and maintain certification and verification systems; and
- e. Monitoring of the DLA's administration of WOTC/WtW. The Regions have the primary Federal oversight responsibility on the States' implementation of the program, particularly on:

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- (1) Eligibility determinations, certification and verification activities;
 - (2) Operational management of the program, including record-keeping, timely reporting and on-site monitoring and audit reviews of each office;
 - (3) Communicating information on the operation of the tax credit program; and
 - (4) Cooperative agreements with other State and local agencies.
- f. Responding to special requests for reports, analyses, studies, etc., in a timely manner;
- g. Handling public complaints and inquiries concerning State administration of the program, and bringing to the attention of the National Office policy issues arising in the field, and
- h. Allocating program funds to the States as available, and monitoring funds utilization.

B. State Level

1. State Role. States, through State legislatures, designate the agency vested with the authority necessary to cooperate with the USES. Governors are responsible for coordinating the full participation of the DLAs under the Wagner-Peyser Act in the WOTC program and WtW Tax Credit. Such participation includes assistance in negotiating State and local cooperative agreements.
2. Designated Local Agency Role. DLAs are responsible for the operational management of the WOTC/WtW Certification process at the State and local level. Where a "SESA" no longer exists and the functions traditionally performed by the Employment Service are incorporated into another State agency approved by the State Legislature, that agency will then be the approved authority to issue Certifications. Certifications may take two forms: the Certification issued to employers who have properly completed all WOTC/WtW Certification requirements and Conditional Certifications to applicants who

meet the basis WOTC target group requirements and/or those of the long-term family assistance WtW group.

Conditional Certifications may be issued by DLAs operating walk-in WOTC/WtW programs. Issuance of a Conditional Certification does not automatically guarantee a Certification to the employer hiring that individual. To obtain the Certification the employer must submit a properly completed IRS Form 8850 with the completed Conditional Certification to the DLA in a timely manner. To be considered timely the IRS Form 8850 must be submitted not later than the 21st day following the individual's employment start date.

The Designated Local Agency's responsibilities are to:

- a. Determine the eligibility of individuals as members of targeted groups.
- b. Issue employer Certifications for the two tax credits.
- c. Establish and maintain a processing and forms review, quality control, record-keeping and reporting capability; establish a system for orderly management of WOTC/WtW job orders, applicant referrals, and records' retention.
- d. Establish and maintain a systematic and orderly system for periodically verifying the eligibility of a randomly chosen sample of individuals certified under the WOTC program and the WtW long-term group; establish a record-keeping and reporting capability for such activities; and, initiate effective corrective action when appropriate as indicated by the result of such activities.
- e. Establish and maintain a system and procedures to regularly monitor cooperative agreements and initiate appropriate corrective actions.
- f. Negotiate formal cooperative agreements with State and local agencies and organizations to assist in the WOTC/WtW program by performing eligibility determinations to augment the DLA WOTC/WtW services. These cooperatives

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agreements may include issuing conditional certifications or procedures for verifying eligibility.

- g. Train DLA and participating agency staff, as needed and appropriate.
 - h. Provide information to employers or their designated representatives, participating agencies, government agencies, applicants and the general public on the WOTC program and the WtW tax credit.
 - i. Monitor formal cooperative agreements for WOTC/WtW eligibility determinations and/or public information.
 - j. Develop Certification forms if State chooses not to utilize the Employer Certification form, ETA 9063.
3. Other State Agencies. Certain State agencies; e.g., Departments of Health and Human Services and Vocational Rehabilitation may, by formal agreement, participate in the WOTC/WtW program. Such agreements will define any responsibilities for eligibility determinations, referrals, reporting, recording, publicity, verification, etc.
- D. Local Participating Agencies. Local agencies serving targeted group populations as part of their regular functions may participate, in the eligibility determination (Conditional Certification), referral and/or publicity related functions of the program. Formal agreements between the DLAs and participating agencies are required in order to issue conditional certifications. Participating agencies/organizations may include, but are not limited to:
- 1. Local Welfare
 - 2. Parole and Probation
 - 3. Veteran Organizations
 - 4. Food Stamp Program Agencies
 - 5. Vocational Rehabilitation, including agencies for the blind
 - 6. ETA Grantees; e.g., Native American and farm workers' groups, and
 - 7. Job Corps

Note: Job Corps centers are covered under the national Memorandum of Understanding between the Director of Job Corps and the Director of the U.S. Employment Service, thereby, eliminating the need for individual agreements with SWAs.

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VII. WORK OPPORTUNITY & WELFARE-TO-WORK TAX CREDITS -
CERTIFICATION PROCESS

All eligibility criteria should be fully documented prior to the issuance of a Certification. All supporting documentation obtained should be retained in the WOTC or WtW files as instructed in this handbook.

A. Administrative Forms

1. IRS Form 8850. Pre-Screening Notice and Certification Request (PSN/CR) for the Work Opportunity and Welfare-to-Work Credits, IRS Form 8850 (pursuant to Notice 97-54, copy included), is to be used without modification of content by employers to establish a record of their belief that a job applicant is a member of a WOTC target group and/or the Long-Term Family Assistance group under the WtW Tax credit. However, employers may add their corporate logos, use a different color for this form, shade-in areas on the form and add notations, as long as, there is no substantive change to the content of this form. This Notice describes the principal statutory changes and announces the release of the new Form 8850 (issued September 1997) for use in pre-screening job applicants and requesting certifications in connection with both credits and a *Transition Relief Period* for using the earlier version of Form 8850 (issued September 1996), which does not reflect the changes contained in the Act. At this time, there is no option to file the PSN/CR electronically or by facsimile transmission.

Exception: The IRS has indicated that employers may place their logo on the form, provide additional instructions, or reproduce the form on colored paper. The DLA should not deny certification to employers who submit an IRS Form 8850 that contain these kinds of modifications or which do not include the instructions from the back of the form.

Note: A properly submitted IRS Form 8850 is one completed in every relevant detail and *signed, either, in pencil or in pen and ink* by applicant and employer, and submitted to the SESA/DLA by the 21st day after the applicant begins work for the employer.

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2. USDOL ICF Form. The Individual Characteristics form (ICF), Work Opportunity and Welfare-to-Work Tax Credits, ETA Form 9061, is a U.S. Department of Labor, Employment and Training Administration (ETA) form required to be used without modification by all employers and their representatives. The purpose of the ICF is to expedite Certification processing by enabling the individual for whom Certification is requested to be identified with one or more target group categories as the case may be under the WOTC and the WtW credit. The ICF also provides other information needed to support verification and reporting.

Employers and their representatives must submit an ICF as part of the Certification process, except when an employer's Certification request is based on a valid Conditional Certification. Employers and their representatives are encouraged to submit the ICF together with the IRS Form 8850 when requesting certification for a target group. No ICF is required to be filed for employer Certification requests that are based on a valid Conditional Certification Form.

The same *Transition Relief Period* that applies to the earlier IRS Form 8850 also applies to the earlier ETA Form 9061 for employers requesting certification for any of the seven original target groups which begin work before January 1, 1998.

For employer Certification requests that are not based on a Conditional Certification, the ICF may be executed at any time during the selection process. The ICF may also be executed after an employee begins work. Employers should be advised that the processing of a Certification request cannot proceed without an ICF on file. Thus, DLAs are advised to set processing guidelines that encourage employers (and their representatives) to attach an executed ICF to each PSN/CR that is submitted. (The exception is an ICF that is filed electronically; and, therefore, cannot be attached to the PSN/CR. In this case, steps should be taken to match the ICF with the relevant PSN/CR.)

Employers and their representatives may execute the ICF by interviewing job applicants and employees either in person or electronically; e.g., via telephone, or by using information obtained from records under the employer's and/or employer

representatives control or other accessible records. **D R A F T** Employers have the obligation to notify the job applicant or employee that the information and supporting documentation collected in executing the ICF will be used to qualify the employer for an employer tax credit available through the Work Opportunity Tax Credit program reauthorized and expanded by the Taxpayer Relief Act of 1997 or the Welfare-to-Work Tax Credit. The ICF paragraph on page two may be used for this purpose.

The ICF may be signed by the person to whom the information on the form pertains; or by an authorized official directly employed by the employer; or by an employer's representative; or by a person having legal status to verify the information on the form in the case of a minor. Authorized officials of DLAs and participating agencies may also sign the ICF.

The ICF may be filed electronically; e.g., via fax or E-Mail, if available. ICFs filed electronically are presumed to be "signed" by the individual or corporate entity under whose authorization the filing was made.

When the ICF is filed electronically, employers and employer representatives are encouraged to take steps that enable the ICF to be matched with the relevant PSN/CR IRS Form 8850. The State should notify the employers and employer representatives of the type of information needed in matching the IRS Form 8850 to the ICF.

3. Agency Verification Forms.

- a. Agency Declaration of Verification Results, Work Opportunity and Welfare-to-Work Tax Credits, ETA Form 9065, is an optional U.S. Department of Labor, ETA form for DLA use only in recording the results of verification activities conducted by the DLA. If the DLA elects to use an alternative form to record verification results, the alternative form must contain all of the information that appears on the optional ETA form.
- b. State Verification Form and/or Release of Information/Documentation are optional State designed forms that are used in verifying the individual's eligibility. These forms may

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grant an applicant's "release of information" so that the DLA, employer and/or employer representative may request documentation directly from the applicable State agency.

The Food Stamp Act (7 U.S.C. 2020((8) and program regulations at 7 CFR 272.1(c) limit the use and disclosure of recipient information to persons (and for that purpose) directly related to the administration or enforcement of the Act, regulations issued pursuant to the Act, other Federal Assistance programs, and certain federally-assisted State programs. Case-file information about a recipient or household may not be disclosed to an employer, unless the recipient has provided the FSP agency, DLA, or local participating agency, as appropriate, written authorization to do so.

Each DLA is responsible for contacting the FSP State agency and becoming familiar with that agency's disclosure policy. The DLA shall negotiate with the FSP agency, as needed, to develop a mutually satisfactory process for the disclosure and safeguarding of necessary FSP recipient case-file information.

4. Conditional Certification Form. The Conditional Certification (CC), Work Opportunity and Welfare-to-Work Tax Credits, ETA Form 9062, is a required U.S. Department of Labor form, that must be used without modification by all DLAs and all participating agencies and programs to which the DLA may delegate responsibility for Conditional Certification. This form establishes that the named individual has been tentatively determined eligible as a member of a WOTC and/or WtW target group(s) indicated; and, therefore, hiring this person may lead to an employer Certification under the WOTC program and/or the Welfare-to-Work Tax Credit. When the employer receives a Conditional Certification, this form, together with an executed PSN/CR, is submitted to the DLA by the employer to request Certification. No ICF needs to be submitted by the employer when a valid Conditional Certification Form is filed with a PSN/CR.

If an employer seeks WOTC and/or WtW Certification for a job applicant who has a Conditional Certification when the PSN/CR is executed, the DLA

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may render a Certification decision based on the employer's timely submission of the PSN/CR and a copy of the Conditional Certification form that displays an expiration date confirming that the named individual qualifies as a member of the specified WOTC target group and or WtW group given the hiring date indicated on the PSN/CR. The DLA must also ensure that the individual's status has not changed since issuance of the Conditional Certification.

DLAs may delegate Conditional Certification responsibility (but not final Certification) to a participating agency. Such delegation of authority must be made pursuant to a written agreement with the participating agency. The agreement must specify the scope of the participating agency's or program's Conditional Certification arrangements and indicate whether the scope of conditional certifying authority extends to all WOTC target groups or only to a specific target group(s).

The Job Corps and the USES executed a national agreement January 10, 1997, (See Appendix IV) to facilitate Conditional Certifications of eligible youth participating in or terminating from Job Corps programs. The national agreement requires that Job Corps programs assure that supporting documentation is readily available to the DLA having Certification responsibility. Further, the national agreement alleviates the need for individual agreements between Job Corps Centers and DLAs responsible for Certification.

5. Employer Certification Form. The Employer Certification, Work Opportunity and Welfare-to-Work Tax Credits, ETA Form 9063, is an optional U.S. Department of Labor, ETA form. The form provides the employer with a record of results of the DLA's action on the employer's Certification request. By law, this form can only be issued by the DLA.

If a DLA opts to develop and use a State-specific Employer Certification form, the State-specific form must contain ALL of the information that appears on the optional ETA Form 9063. This form can only be issued by the DLA.

Under the reauthorized WOTC and new WtW Tax Credit, DLAs should issue dual certifications when the

applicant ~~qualifies~~ under a WOTC target group and the Long-Term Family Assistance Recipient group.

The national office has included specific language in the Comments Box of ETA Form 9083, alerting employers who receive dual certifications as follows: "employers are, hereby, informed that they cannot claim both the WOTC and the WtW tax credits for the same employee in the same taxable year."

Issuing an Employer Certification cannot be made contingent on the DLA conducting a personal or "walk-in" interview of the person whose employment establishes the employer's claim to the tax credit. Although personal or walk-in interviews may be used in conjunction with issuing a Conditional Certification, they may not be mandated as part of the DLA's Certification process that follows an employer's submission of a Certification request.

6. Miscellaneous State Addendum. DLAs may attach supplemental information to the ICF that causes it to contain State-specific information. Any supplementation of the ICF may provide information only. Supplemental information may not have the effect of adding new data elements to the information collection called for in the ICF. Examples of appropriate supplemental information include the address to be used to file the ICF, information that denotes Empowerment Zones and Enterprise Communities in a State, and a person that may be contacted, or a "help number" that may be called, to have questions answered about the State's WOTC program or the WtW Tax Credit. Supplemental information may also include material that expresses in easy to understand terms the characteristics that establish eligibility under the various WOTC target groups and/or the WtW group, or describes the supporting documentation that will be accepted as proof of eligibility under a WOTC category or the WtW long-term family assistance recipient.
7. WOTC/WtW Worksheet. This is a State developed form for use in the certification process. The form provides spaces for the eligibility reviewer and the 48-hour reviewer to sign, date and indicate their determinations.
- B. Supporting Documentation. In specifying the supporting documentation that will be accepted as proof of

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eligibility under a WOTC/WtW category, DLAs must accept the type of documentation indicated in this handbook and may not require additional documentation from employers (employers' representatives) that sets a higher standard of proof of eligibility.

It is the responsibility of the DLA to take reasonable steps to assure that the documentation needed to make a Certification decision is available to the DLA. While DLAs may accept documentation provided by an employer or employer representative, DLAs may not rely solely on an employer's or employer representative's efforts to secure documentation that establishes eligibility. The DLAs are strongly encouraged to obtain adequate documentation from participating agencies; e.g., through a Memorandum of Understanding. If the DLA's efforts fail to secure the needed documentation from the Participating Agencies after a reasonable effort conducted over a reasonable period of time, the DLA shall deny Certification and inform the employer of the reasons for the denial.

Employers may list, on the ICF, sources of information; i.e., parole officer's name or a welfare case number to aid the DLA in establishing eligibility in a timely manner. Employers also may obtain a letter from the agency that administers the relevant program indicating that the employee or a member of his or her household meets one of the eligibility requirements. For example, an employer may obtain the name of a case worker. Employers may secure copies of the following documentation: birth certificates, driver's licenses, school I.D. cards, work permits, pay stubs, military discharge papers, and utility bills.

The employer should not request, obtain or provide the actual documentation for the remaining categories (i.e., for those receiving welfare and/or food stamp benefits). For example, it would not be appropriate for an employer to request the employee's food stamp benefit history.

Section 11(e)(8) of the Food Stamp (FS) Act prohibits state agencies from disclosing participants/recipients' information to employers or the DLAs. However, the provisions in P.L. 104-188 which authorize the WOTC program also require that the Secretary of Treasury and the Secretary of Agriculture enter into an agreement to provide FS recipients' information to the DLAs. Under these circumstances, the DLAs or participating agencies cannot require employers to obtain FSP information or deny certification if the employers fail to furnish the subject documentation. The DLA shall take the necessary

steps to obtain this documentation and process all employers' timely requests for certification.

DLAs should advise employers and employer representatives regarding when supporting documentation should be received. Within 90 days of filing the PSN/CR and ICF is a suggested time standard. The objective of this standard is to expedite the DLA's Certification decision. However, DLAs cannot cite failure to submit supporting documentation within 90 days of filing a PSN/CR and ICF as the reason for denial of Certification.

C. Certification Process

1. General Provisions. The DLA will require and collect paper documentation which demonstrates WOTC and/or WtW eligibility. DLAs must use the full documentation method to administer the WOTC program and the WtW Tax Credit.
2. Participating Local Agency. A "participating agency" is a federal, State, county, or local government agency or a grantee of these agencies. A participating agency may include, but is not limited to, State Workforce Agencies, One-Stop Career Centers, Job Corps Centers, JTPA grantees, School-to-Work Transition grantees, Vocational Rehabilitation agencies, city and county welfare offices, Veterans Affairs offices, and other veterans-serving organizations.
3. Conditional Certification. This process may be triggered when the jobseeker comes to a local employment office or to a participating agency to perform a job search or in response to a positive recruitment.
 - a. Process. To determine if a job-ready applicant is eligible and to issue a Conditional Certification for the WOTC program or the WtW group, the DLA/Participating Agency should:
 - (1) Enter the Initiating Agency Code. This is a pre-determined code assigned to each agency who has a Memorandum of Understanding with the DLA granting them permission to issue Conditional Certifications. Note. Job Corps Initiating Agency codes appear in Appendix IV.

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- (2) Enter the Control Number. It may be a Social Security No., case No. or some other appropriate designation which permits easy filing, identification and retrieval of forms.
 - (3) Under "Type of Conditional Certification Determination", distinguish between "Original," if the applicant is being processed for the first time; or "Revalidation", if the eligibility process was performed within the previous 12-month period. Otherwise, the Conditional Certification is counted as original.
 - (4) Enter the date (month, day and year) in which the eligibility determination is completed.
 - (5) Enter the name and address of the State Workforce Agency (if known), that will issue the final Certification.
 - (6) Sign and date the ETA Form 9057, Conditional Certification.
 - (7) Enter the area code and telephone number of the agency issuing the Conditional Certification.
 - (8) Enter the applicant's full name (last name, first name and middle initial).
 - (9) Enter the applicant's Social Security number.
 - (10) Enter the applicant's home address, including, apartment number, and zip code.
 - (11) Enter the Target Group code. Note. Job Corps agency codes appear in Appendix IV.
 - (12) Have the applicant sign the Conditional Certification Form.
 - (13) Collect all information and supporting documentation required for Conditional Certification to indicate the applicant's eligibility.

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- (14) ~~Complete~~ section 13 indicating the expiration date of this Conditional Certification (e.g., 45-days).
 - (15) Make a copy of the Conditional Certification, attach all supporting documentation, or note location of electronic file and retain. The participating agency may be required to produce this information, e.g., during an audit. Note. Job Corps retains the original copy of the Conditional Certification.
 - (16) Provide the original Conditional Certification to the applicant to use in the job search. The participating agency may include a copy of the IRS Form 8850 and may assist in completion of the applicant section. Note. Job Corps retains the original copy of the Conditional Certification.
 - (17) Upon the applicant's employment, the employer completes items 14, 15, 16, and 17 on the Conditional Certification. The employer must also complete and submit an IRS Form 8850 in a timely manner.
- b. Review and Certification. The issuance of a Certification begins with a review of the Conditional Certification, ETA Form 9062, by the DLA. This review begins the verification process of eligibility determinations issued. The Conditional Certification should be submitted for final Certification in conjunction with an IRS Form 8850. During the review, these forms are screened for completeness, timeliness, and target group designation. This review should occur within 60-days of receipt of the forms. Since the supporting documents used to establish eligibility have been retained in the applicant's Conditional Certification file, no further documentation is necessary.
 - c. Issuance of Certifications and Denials. Upon completion of the review, the DLA will issue Certifications to employers, as appropriate.

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For denials, the DLA will send a letter to the employer denying the Certification and stating the reason(s) for the denial. In addition, retain copies of the Certification and/or ineligible ruling, along with all forms and documentation, as appropriate, for the specified retention period.

- * d. Quality Assurance. During the required Audit Process for WOTC/WTW Certifications issued based on a Conditional Certification will be selected for verification. At this point, the DLA will be required to obtain all supporting documentation from the participating local agency used to establish the applicant's eligibility during the Conditional Certification process. Should any participating local agency be found to have an unusually high rate of error in their issuance of Conditional Certifications they may be subject to corrective action plans at the state's discretion. This may include a "no-play" policy whereby the participating local agency in question may have their right to issue Conditional Certifications revoked.
4. Pre-Screening Notice and Certification Requests. This process of certification is triggered when an employer sends a Pre-Screening Notice, IRS Form 8850, to the DLA for Certification. In addition to the IRS Form 8850, the employer must submit to the DLA, an ICF and supporting documentation to support the applicant's eligibility. The certification process for those applicant's who have been pre-determined as eligible (i.e., a Conditional Certification has been issued) is detailed in the preceding section.
- (a) Employer process. Employers should follow the process outlined below:
- ❖ Carefully interview prospective employees to determine WOTC and/or WtW eligibility before making any offers to hire. A job applicant and employer have until the 21st day after the applicant begins work to sign and date the IRS Form 8850. The employer has until the 21st day AFTER the applicant begins work to submit a completed IRS Form 8850 to the appropriate DLA.

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- ❖ Complete an ICF, or the bottom part of a Conditional Certification, as required.
 - ❖ If completing the ICF, collect available documentation to demonstrate WOTC and/or WtW eligibility.
 - ❖ Completely prepare and sign the Pre-Screening Notice, IRS Form 8850.
 - ❖ Transmit the forms with copies of any supporting documentation to the DLA for processing.
- (b) Designated Local Agency Process. To determine eligibility and issue a Certification for the WOTC program and or the WtW, the DLA should:
- (1) Receive a properly completed Pre-Screening Notice, IRS Form 8850 from the hiring employer. This document must be signed and postmarked not later than the 21st day following the individual's employment start date. If the IRS Form 8850 is not received with an ICF and supporting documentation, or the completed bottom part of a Conditional Certification form, it should be filed pending the receipt of these items.
 - (2) Collect additional information and supporting documentation as required to determine and substantiate eligibility.
 - (3) Record the date that the Pre-Screening Notice was postmarked.
 - (4) Carefully verify timeliness, target group eligibility and all supporting documentation. If all aspects are in order and indicate eligibility, a certification shall be issued. States should initiate a procedure for quality review.
 - (5) Retain all original forms and documentation for files.
 - (6) Review of PSN/CR should occur within 60-days of receipt in the DLA.

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- c. Issuance of Denials. The steps for issuance of denials are basically the same as those outlined above. The exception is that the reason for the ineligible ruling should be notated. Keep copies of the ineligibility ruling, along with all forms and documentation, for the specified retention period (i.e., 1 year).

5. Verification and Audits.

a. Procedures

- (1) Documentation of Eligibility. To ensure the integrity of the program and provide a solid basis for subsequent verification activities, the materials and/or collateral contacts used to establish an applicant's eligibility shall be documented using the Agency Declaration of Verification Results, Work Opportunity and Welfare-to-Work Tax Credits, ETA Form 9065, or an equivalent form at the time the eligibility determination is performed.

The application must contain the information upon which WOTC and/or WtW eligibility is determined and be used to document verification of this information in the audit process. While all items on the application should be examined for correctness and consistency, the documentary and collateral contact sources which are verified during an audit are to be attached or annotated on the application.

Some applicants may not be able to provide complete documentary evidence or collateral contacts. In such cases, State wage records, welfare and social service records, etc., should be used where feasible to verify the statements made by the applicant. This is discussed further in *Audit Methodology* later in this chapter.

The completed application serves as a record of the type/source of information

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or documentation upon which the Conditional Certification was issued. It must become part of the record/file for each Conditional Certification issued. If a Certification is issued and later chosen for audit, the information identified or attached to the application will be used to identify the type/source of documentation or collateral contact needed for the audit.

Whenever possible, the DLAs should obtain photocopies of materials presented by the applicant; e.g., driver's license, military discharge papers, etc., and retain as part of the applicant's file to expedite a subsequent audit (see Audit Methodology later in this chapter).

(2) Quality Reviews

- a. Frequency. A "quality review" is performed in each applicant's record file at certain key points in the eligibility determination and/or Certification process. This review must be accomplished by a different individual than the one performing the initial screening.

Documentation of the 48-hour review should be recorded. All forms must be checked by either the central or local office of the DLA for completeness, accuracy and consistency. Key review points in the eligibility determination and/or Certification process include a "48-hour review" within:

- ❖ Completion of eligibility determination; and
- ❖ Receipt by the DLA of copies of Pre-Screening Notices, IRS Form 8850s and supporting documents which were issued by participating agencies; and
- ❖ Receipt of completed PSN from employer; and,

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Issuance of Certifications
and/or denials.

- b. Procedures. The DLA will review each form as soon as practicable of receipt to determine that:
- (1) It is complete and internally consistent;
 - (2) The information related to eligibility complies with the criteria for the target group;
 - (3) the participating agency or local office is contacted immediately to obtain appropriate information when forms are incomplete or do not support the eligibility determination; and,
 - (4) the file copy of the Pre-Screening Notice is annotated regarding any contact with the certifying agency or local office.
- c. When information received from the certifying agency or local office is incomplete or does not support the eligibility determination, the certifying agency or local office must, when notified:
- (1) Send revised forms providing missing or corrected items to support the determination as soon as practicable to the DLA; or
 - (2) Invalidate the Conditional Certification or Certification (in the case of an audit) when the required information cannot be obtained;
 - (3) Provide written notification of invalidation of the Conditional Certification or Certification

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to the applicant and the DLA;
and,

- (4) Notify any employer to whom the applicant was referred that the Conditional Certification or Certification is invalid because of missing or incorrect items and that without such information no Certification can be issued or that the Certification is being revoked (in the case of an audit).

Completed Conditional Certifications returned by employers should be checked upon receipt to ensure that the "Employer Declaration" section was properly completed. If incomplete, the Conditional Certification should be returned to the employer with a request to supply the missing information.

The completed Certification and supporting documentation should be given a final review for completeness and consistency before the Certification is mailed to the employer. It must include the name, social security number, employment start date, job title, and wage of eligible, newly hired employee.

At such time as all requested information is returned and completed correctly, a certification or denial should be issued by the DLA within 14 days.

(3) Audit Methodology

- a. General. Preferably during, or immediately following the end of each quarter, the DLA will draw, for the purposes of auditing, a 10 percent sample of all Certifications issued

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during the quarter, including those for qualified summer youth employees. This audit will be conducted to establish the credibility and reliability of the eligibility determination and Certification process. Certifications in the sample must be examined by a DLA staff person *other than the originator*. Unless results call for a wider-scope examination of Certifications, the audit sample will suffice as the "test" of WOTC, WtW or dual Certifications as required.

The DLAs are encouraged to use UI and/or other available wage records or files to review all Certifications made. Quality control is important and computerized runs of Certifications against UI wage records reduce the chances of erroneously certifying ineligible persons for the tax credit.

The DLAs may find that the availability of UI wage records may delay the audit sample. Note. It is not the responsibility for the DLAs/SWAs to verify that a certified targeted employee has worked the required numbers of hours for the employer. The responsibility for verifying the required number of hours a certified targeted group member employee works, rests with the IRS.

- . Sample Size. The sample size shall be based upon the total number of Certifications issued; i.e., universe size, in the State during the preceding quarter, including, if applicable, those issued for the qualified summer youth target group. The table, which follows, serves as a guide for selecting the required sample size.

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SAMPLE SIZES FOR QUARTERLY VERIFICATION

<u>Universe Size</u>	<u>Sample Size</u>
Below - 1,200	10% Sample
1,200 - 1,300	129
1,301 - 1,400	130
1,401 - 1,500	131
1,501 - 1,700	132
1,701 - 1,900	133
1,901 - 2,100	134
2,101 - 2,300	135
2,301 - and above	142

- c. Examination of Certifications/Conditional Certifications. Verification of entries on the application for the purpose of an audit requires re-examining photocopied documentation; e.g., copy of driver's license or veteran's discharge, attached to the application, or re-contacting the collateral source(s) listed in the application; e.g., local welfare agency, vocational rehabilitation agency. It should also include checking State wage records or the records of welfare agencies, etc., to confirm the statements of the applicant. If the applicant provided a "no income" affidavit, this may also be verified by checking State wage records. Unless a problem is evident, there is no need to verify the documentation or collateral sources by contacting the individual.

If, however, any material contained in the file is contradictory or does not support the individual's eligibility, the individual may be contacted to verify his/her eligibility. In contacting the individual for verification audit purposes, the DLA has three options:

1) individuals can be asked to resubmit copies of documentation, or 2) submit further documentation, or 3) they can interview the applicant again. To secure maximum cooperation, individuals should be informed of the reason for the request; i.e., normal auditing procedure and reminded that the penalty for fraudulent statements, documentation, or collateral contacts applies as it did for the original eligibility interview.

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Employers may assist in locating individuals to obtain their cooperation for audits. When contacting employers for this purpose, DLAs should stress that the auditing process ensures the integrity of the WOTC program.

It is understood that despite good faith efforts to obtain copies of income documentation or sources of collateral contact and to locate employees when necessary, some audits will result in a finding of "not able to establish that the certified individual is eligible." However, too large a proportion of such findings may call audit results into question. A substantial effort should be made to avoid such a finding.

For those found to be ineligible, the DLAs must notify the employer, and the IRS of this finding as soon as possible, by certified mail. This notification must be made within 5 days of a determination of ineligibility. Employer eligibility for the tax credits does not cease until the date that the employer is notified that the Certification(s) has been invalidated.

- d. Second Audit Sample. If the number ineligible in the original quarterly audit sample is 5% or more, a second sample of equal size must be drawn. If the second sample confirms an error rate of 5% or more, a corrective action plan is required.
- e. Corrective Action Plan. Corrective action plans will be developed and carried out by the DLAs. Such plans should be sufficiently detailed and prescribed to ensure that necessary corrective actions are taken and should result in adequate improvements.

Corrective action plans, when indicated by audit results, should be described in the "Comments" section of ETA Form 9059, "Verification Results."

- f. Qualified Summer Youth Employees. Certifications issued for members of the qualified summer youth target group will be

included in the total universe from which the audit sample is drawn for the subject quarter.

By definition, most Certifications for this group will be issued during the months of June, July and August and sampled during the following quarter. Under no circumstances shall this target group be excluded from regular audit procedures.

- g. Reporting Verification Results. After all Certifications selected in the quarterly audit samples are reviewed, the results of the review shall be reported quarterly to the National Office via the Regions, on ETA Form 9059, Verification Results, WOTC and WtW Tax Credits - Report No. 3. This report is due at the Regional Office by the 20th day of the 5th month following the closing date of each quarter.
- h. Federal Role. The Department of Labor/ETA is responsible for reporting annually to the Congress on the WOTC program and WtW Tax Credit, including verification results, oversight, and other functions necessary to properly administer the program. Regarding quality control audits of WOTC/WtW Certifications, the DOL will fulfill its oversight and guidance responsibilities by participating in a representative number of quarterly audits and compliance reviews at the State level each year.

D. Mailed WOTC and WtW Documents.

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1. Evidence of Mailing.

- a. The IRS has interpreted evidence of mailing to require either:

- ❖ a U.S. Postmark;
- ❖ the original of a U.S. Postal Service (USPS) "Certificate of Mailing" (PS Form 3817);
- ❖ or other equivalent U.S. Postal Service approved authorized evidence of the mailing date.

Since the purpose of the Certificate of Mailing is to furnish evidence of timely submittal, when properly accepted and postmarked at an accepting Post Office, Printed Certificates of Mailing forms, will supersede an incorrect postmark.

- b. The DLA date stamp, if used as a record of receipt in lieu of postmarking, must indicate a date which is not later than the day the person started work; e.g., if the employer request is date stamped and annotated by the DLA on May 6, the target group individual could begin work no sooner than May 6.

- c. Use of other formats in lieu of USPS Certifications of Mailing (PS Form 3817) at the mailer's expense or of Firm Mailing Book form, must comply with guidelines in Section 931.22 of the U.S. Postal Manual. The new format must identify the:

- 1) Prospective employee(s);
- 2) employer on whose behalf the Certificate is sought; and,
- 3) date the individual is scheduled to begin work.

2. Recording by the Designated Local Agency.

- a. As appropriate, the date of the postmark or the Certificate of Mailing must be recorded on the PSN/CR. The IRS 8850 Form should be retained as a file copy, along with all other supporting documentation used to make and/or

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substantiate an eligibility determination. Employers may, in the same envelope, include more than one PSN/CR, but must identify each worker listed on the Certificate of Mailing.

- b. Where the DLA receives a PSN/CR, or multiple PSN/CRs submitted in one envelope or wrapper, and based on the postmark on the envelope the submission is determined to be timely, the DLA may date stamp the PSN/CRs and need not retain the original envelope or wrapper.

Exception: In the case where the submission date is in question or under dispute, the DLA should, for audit and appeal purposes, retain the original envelope or wrapper bearing the postmark. In this circumstance, but where multiple submissions are received in a single envelope or wrapper, the DLA may either (1) attach a copy of the original envelope or wrapper to each relevant application or (2) record the file location of the original envelope or wrapper on each application or file copy received in that packet.

3. Timely Mailing Treated As Timely Filing.

- a. USPS regulations require that a document shall be deemed to be filed on the date of the postmark stamped on the cover in which such document was mailed.

Thus, if the cover containing such document bears a timely postmark, the document will be considered filed timely, although it is received after the last date, or the last day of the period, prescribed for filing.

Note: In cases where there are multiple USPS postmarks, the earliest postmark is used to determine the filing date, e.g., mail that is forwarded from the receiving office to the certifying office.

- b. For WOTC/WtW purposes a "document" means the PSN/CR, IRS Form 8850 filed by the employer to request Certification. This document is required to be filed or received by the DLA, not later than the 21st day following the

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individual's start date. For this purpose, a document is deposited in the mail in the United States when it is deposited with the domestic mail service of the USPS.

4. Mailing Requirements. The document must be deposited within the prescribed time in the mail in the United States with sufficient postage prepaid.

5. Acceptability of Postmarks

- a. If the postmark on the envelope or wrapper is made by the USPS, such postmark must bear a date that falls not later than the 21st day following the individual's start date. If the postmark bears a date later than the 21st day after the individual's start date, the document will be considered not timely filed.

Note: When a SESA/DLA date stamps a Form 8850 upon receipt, the date stamp is not later than the 21st day after the job applicant began work, and the SESA/DLA has no reason to suspect that there is any problem with the dates on page 2 of Form 8850, there is no need for a [USPS] postmark.

- b. If the postmark on the envelope is not legible, and the DLA has no evidence of receipt within reasonable mail delivery time, beginning with the 21st day following the employment start date, the employer or the employer representative who is required to file the document has the burden of proving the time when the postmark was made. If the cover containing a document bearing a timely postmark made by the USPS is received after the time when a document postmarked and mailed at such time would ordinarily be received, the sender may be required to prove that it was timely mailed. To establish that proof, the employer or his/her representative must show:

- (1) that it was actually deposited in the mail before the last collection of the mail from the place of deposit not later than the 21st day following the individual's start date of the employee;

(2) ~~that the delay in receiving the document was due to a delay in the transmission of the mail; and,~~
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(3) the cause of such delay.

- c. If the envelope has a postmark made by the USPS in addition to another postmark, the postmark which was not made by the USPS shall be disregarded, and whether the envelope was mailed in accordance with this subdivision shall be determined solely by applying the rule in D.4., above.
 - d. If the document is sent by U.S. Registered mail, the date of registration of the document shall be treated as the postmark date.
 - e. If the document is sent by U.S. Certified mail and the sender's receipt is postmarked by the postal employee to whom such document is presented, the date of the U.S. postmark on such receipt shall be treated as the postmark date of the document. Accordingly, the risk that the document will not be postmarked in the day that it is deposited in the mail may be overcome by the use of registered mail or certified mail.
6. Postage meter postmarks alone, other than those provided by the USPS, are not acceptable as evidence of timely filing unless received within a reasonable amount of time through the USPS. Numerous employers and delivery systems are using a variety of postage meter equipment, so that the accuracy of dating by postage meters may be inconsistent.

- * E. Examples of Documentary Evidence. THE FOLLOWING LIST OF DOCUMENTATION IS NOT ALL INCLUSIVE. SWAs/DLAs MAY USE OTHER DOCUMENT SOURCES THAT THEY DEEM APPROPRIATE TO VERIFY AND ESTABLISH TARGET GROUP ELIGIBILITY. Note. The Form I-9 is no longer an acceptable piece of documentary evidence. ESPL No. dated March 1998, officially rescinded authority to use this form as proof of age and residence.

AGE/BIRTHDATE

(required for *High Risk, Summer Youth & Food Stamp*)

- Birth Certificate
- Driver's License
- School I.D. Card/School Records
- Work Permit
- Federal/State/Local Government I.D. ♦
- Hospital Record of Birth

FAMILY INCOME

(required for *Ex-felon*)

- Pay Stubs
- Employer Contacts
- W-2 Forms
- UI Documents
- Public Assistance Records
- Family Members' Statements
- Parole Officer Statements

EX-FELON STATUS

- Parole Officer's Name/Statement
- Correction Institution Records
- Court Record, Extract, Contact

FOOD STAMP RECIPIENT

- Food Stamp Benefit History
- Signed statement from authorized individual with specific description of months benefits were received.
- Case Number/Identifier

SSI RECIPIENT

- SSI Record or Authorization
- SSI Contact
- Evidence of SSI Issuance

NUMBER IN FAMILY

(required for *Ex-felon*)

- Public Assistance
- Social Service Agencies
- Family Members' Statements
- Parole Officer's Statements

♦ Where any item of documentation such as a Federal I.D. Card does not contain age or birthdate, the SESA must obtain another documentary source to verify the individual's age.

♦♦ Where any item of documentary evidence, such as a Library Card does not contain the holder's address, the SESA must obtain other documentary evidence issued in the jurisdiction where the EZ/EC or RC is located showing the holder's address.

VETERAN STATUS

- DD-214
- Reserve Unit Contacts
- Discharge Papers

VOCATIONAL REHABILITATIONREFERRAL

- Voc. Rehab. Agency Contact
- Social Services Agency
- Veteran's Administration Contact

AFDC/TANF & Long-Term Assistance Recipient

- AFDC Benefit History
- Signed statement from authorized individual with specific description of months benefits were received.
- Case Number/Identifier

EMPOWERMENT ZONE/ENTERPRISECOMMUNITY

- Driver's License
- Work Permit
- Utility Bills
- Lease Documents
- Voter Registration Card
- Computer Printout From Other Government Agencies
- Food stamp Award Letter
- Housing Authority Verification
- Landlord's Statement
- Letter From Social Service Agency or School
- Library Card ♦♦
- Medicaid/Medicare Card
- Property Tax Record
- Postmarked Envelope Addressed to Applicant
- Public Assistance Records
- Rent Receipt
- School I.D. Card
- Selective Service Registration Card
- W-4

F. Special Rules for Conditional Certifications

1. Validity Period of Conditional Certifications

- a. Because of the specific language in the law, the validity period for Conditional Certifications requiring an economic determination is generally 45 days. This applies to the qualified Ex-Felon target group. Conditional Certifications that do not require an economic determination have no predetermined validity period; i.e., Vocational Rehabilitation Referrals and Recipients of AFDC/TANF payments, but are required to meet the specific requirements for their target group at the time of their hire and/or start date.
- b. The applicant may continue to search for employment even after the validity period expires. However, revalidation is required if an employer wants to hire the applicant and take advantage of the tax credit.
- c. Since an Ex-Felon Conditional Certification requires an economic determination, it is valid for only 45 days. The eligibility of a hired person with an expired voucher of this type must be redetermined before the Certification can be issued again. Redetermination of eligibility involves recalculating and annualizing family income for the 6-month period immediately preceding the month in which the employee starts work.
- d. The annualized income rate must be 70 percent or less of the current LLSIL. The participating agency or the DLA must also determine that the individual still meets the Ex-Felon requirements.
- e. This information is recorded on a new Conditional Certification and marked "Revalidation." Updated applicant characteristics also must be entered as part of the revalidation process.
- f. Photocopies of applicant-provided documentary evidence and/or collateral sources for

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establishing eligibility must be those used to establish the person's eligibility for the "revalidation," which may or may not be the same as those used to issue the original Conditional Certification.

- g. If a person with a revalidated Conditional Certification is selected as part of the verification sample, information used to complete the revalidated Conditional Certification as recorded on the new application should be verified, rather than that used for the original determination.

G. Special Rules for Timeliness.

1. When the last day of the 21-calendar day period ends on a Saturday, Sunday or legal holiday, the next succeeding business day, which is not a Saturday, Sunday or legal holiday will be treated as the last day of the period. PSN/CRs which are postmarked according to this rule will be considered timely.
2. By mailing the documents to the DLA in a timely manner, the employer has fulfilled the "timely request" requirement, even if the ETA documents are incomplete.

H. Employer Representatives. An employer may use an intermediary; e.g., a management services firm, to serve as an authorized representative to conduct WOTC program activities. The following general guidelines apply:

1. IRS has recognized that any employer representative must be properly designated. Therefore, the original notarized Power-of-Attorney, or a notarized copy of a duly authorized Power-of-Attorney, designating an employer representative must be provided to the appropriate DLA/SESA.

Note: IRS Form 2848, "Power-of-Attorney and Declaration of Employer Representative" may be used for this purpose. An equivalent document acceptable by the DLA may also be used.

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There is no requirement to notarize the signature on an original IRS Form 2848, "Power of Attorney and Declaration of Representatives." Any equivalent document, however, that the SWAs/DLAs accept must have the signature notarized on the original Power of Attorney.
- When the SWAs/DLAs require a "notarized copy" of an IRS Form 2848, "notarized copy" means the notary has seen the original IRS Form 2848 and is attesting that the copy is a true and exact copy of the original IRS Form 2848.
- 2. Photocopies of the original Power-of-Attorney should also be on file at appropriate SESA/DLA local offices. States should not impose additional requirements for documenting Powers-of-Attorney.
- * 3. When the Power-of-Attorney is properly filed, the SESA/DLA is obligated to honor it and conduct WOTC and/or WtW business with the representative as though she/he were the employer. It is the responsibility of the SESA/DLA and not of the IRS to track Powers of Attorney, whether or not the IRS Form 2848 is used.

VIII. ~~ADMINISTRATION AND REPORTING REQUIREMENTS~~
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- A. Cooperative Agreements at State and Local Levels. The role of "participating agencies" is recognized in WOTC law. In recognizing participating agencies, DLAs are required to negotiate formal cooperative agreements, also known as Memoranda of Understanding, with State or local agencies which may then participate in the administration of the program.

State and local agreements need not follow a prescribed pattern. Specific elements of such agreements should be the result of negotiations between the DLA and participating agencies. Agreements should be mutually reviewed at least annually and should include the following:

1. Procedures which minimize for applicants and employers or employer representatives the number of contacts and processing stages;
2. Procedures to establish a system for orderly management of WOTC job orders, applicant referrals, verification activities and records;
3. Establishing an eligibility determination process consistent with procedures outlined in Chapter V.
4. Provide for training, review and verification by the DLA of eligibility determinations by the participating agency;
5. Minimizing paperwork requirements; and,
6. Procedures, mutually developed, to allow the DLA to meet its monitoring responsibilities of WOTC and WtW Tax Credit activities.

B. WOTC Funding

1. Authorization. ETA has distributed funds to the DLAs, through the Regional Offices (ROs), using a formula based on Civilian Labor Force, WOTC workload and welfare population.

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2. Accounting Costs. The DLAs will account for costs associated with administering the WOTC program and the WtW Tax Credit. Costs for verification activities will be reported separately from all other costs. The DLAs should report both quality review and auditing costs under verification activities.
- C. Identifying WOTC and WtW Job Orders. When a job order is received from an employer who requests only individuals pre-certified under WOTC/WtW or expresses a preference for individuals pre-certified under WOTC and/or WtW, State agency records should show the request and this data should be reported in accordance with the DLA's instructions.
- D. Liability. The Department of Labor cannot immunize the DLAs and/or the participating local agencies from a possible judicial finding of liability based on circumstances of a given case. To minimize potential liability and/or damages, the ETA and the IRS have established standard criteria for determining and verifying eligibility.

These criteria permit employers to claim the tax credit on qualified wages paid until the employer or the employer's representative receives an invalidation notice from the DLA. This notice is based on the discovery of error and/or fraud in the eligibility determination process. As long as a DLA or participating agency establishes a system in compliance with applicable regulations, directives and agreements, the potential for liability is further minimized.

When applicants, employers and employer representatives make and/or accept documentation in which no fraud was willfully intended, a determination of liability must be made case by case. An applicant, employer or employer's representative is responsible for his/her own actions.

Recovery procedures will be instituted against an applicant who fraudulently attested to facts on his/her eligibility as shown on the application. Falsifying or concealing

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information requested is a crime violating 18 U.S.C. 1001 and is punishable by a fine of not more than \$10,000 or imprisonment of not more than five years. Action to recover from a WOTC participant any credit granted (based on the participant's fraudulent documentation) is solely within the discretion of the IRS, based on the DLA's revocations of Certifications (invalidations).

E. Record Retention (Wait for IRS Information Re: electronic form.)

1. Designated Local Agencies

- a. Eligibles. The DLAs are required to keep WOTC and WtW Tax Credit records (applications, supporting documentation, etc.), including all records for withdrawn Certifications, for a period of 4 years from the date of Certification, or from the date of issue of the determinations which do not result in Certification. This time period conforms to the IRS "record retention requirements" for employment taxes, which specifies that records be kept for 4 years after employment taxes are due.

In spite of the WOTC/WtW carryover provisions, the 4-year record retention period still applies. However, prior to the expiration of the 4-year retention period, should any litigation or audit be initiated or should any claim be instituted involving the records, the records shall be kept beyond the 4-year period until the litigation, claim or audit findings are finally resolved.

- b. Ineligibles. The DLA should keep applications for ineligibles or invalidated applications, including pertinent documentation and supporting forms, for at least 1 year, but longer if further action or an appeal is pending and the DLA has been notified in writing.

2. Participating Agencies

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- a. Responsibility of the DLA for Record Retention. As part of the memorandum of agreement between a participating agency and a DLA, the DLA may retain, if mutually agreeable, the responsibility for record retention of the complete file. This includes documentary evidence used by the participating agency to determine eligibility.
- b. Record Retention by the Participating Agency will be the same as for the DLA.

- F. Policy Clarification/Appeals Resolution It is expected that questions, especially those pertaining to eligibility determination and Certification, and procedural issues, will be resolved at the DLA level. Those policy issues that cannot be resolved at the DLA level should be submitted in writing to the ETA Regional Office for response.

To maintain uniformity in resolving policy issues, questions and questioned determinations that cannot be resolved at the Regional level, and policy matters, appeals and waiver requests involving IRS issues should be submitted in writing to the National Office, ETA, by the ETA Regional Office, Attn: National Coordinator via ORM. A suggested format is in the appendices of this Handbook. The USES National Office staff will respond to Regions on ETA policy issues and will refer to the IRS National Office, matters which fall within its jurisdiction.

The ETA National Office will report IRS responses to appropriate ROs for transmittal to the DLAs. Further, ETA and IRS policy direction that reflects national concerns will be issued in field memoranda, revisions or supplements to this Handbook to ensure program consistency. In instances where a final resolution to a policy issue may be delayed, the National Office will provide an interim acknowledgment or status report.

G. WOTC/WtW Appeals' Guidelines In cases where a DLA has issued a denial on a certification request, the employer may appeal this decision.

This appeal should be based on sources other than those used in issuing the original denial, unless it can be established that the original denial was issued in error because of a misinterpretation of information. Where an employer supplies the "Appeal Documentation" listed below and the information supports eligibility, such documentation should supersede the original denial notice and a Certification will be issued.

H. Documentation Which Can Be Used for Employers' Appeals.

1. Category A. AFDC/TANF Recipient.
Caseworker's signed statement with the applicant's name, social security number, hire date indicating the number of months that the new hire was on welfare before the employment start date.

The caseworker's telephone number and address should also be included.

2. Category B. Veteran. If no DD-214 is available, a verification letter from the Veteran's Administration with the applicant's name, social security number, branch of service, and active duty dates. Each statement should be signed by a Veteran's Administration representative, and be on a Veterans Administration Form. These forms could possibly include but are not limited to, a Reply to National Personnel Record Center form, a Summary of Military Service form, a Certificate of Military Service form, or a Freedom of Information Act (FOIA) Release statement.
3. Category C. Ex-Felon. Parole Officer's signed statement verifying the new hire was convicted and/or released from prison for a felony within the past year or on work release from a felony or conviction. The statement should include the applicant's name, Social Security Number, hire date, the conviction and release dates, and the Parole Officer's name and telephone number. Also needed would be a statement from the applicant or the Parole Officer indicating the 6 months income for the household is below the Lower Living Standard Income Level for the appropriate county if income amount is in question.
4. Category D. Empowerment Zone/Enterprise Community. Signed statement from an official of the nine empowerment zones or urban or rural enterprise communities in which the applicant's address is located that verifies that the address is in the EZ/EC.
5. Category E. Vocational Rehabilitation. Assigned statement from the Vocational Rehabilitation counselor with the applicant's name and social security number and the agency name from which the assistance was received.

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6. Category F. Summer Youth. Signed statement from a representative of the county in which the address is located that states the address is in an EZ/EC. If no other proof of age is available, a signed statement from a parent or guardian attesting to the new hire's date of birth is acceptable.
 7. Category G. Food Stamps. A signed caseworker statement with the applicant's name, social security number, start date, indicating number of months on food stamps and verification of age. Statements should include caseworker's name, telephone number and address.
 8. Category H. Supplemental Security Income. Printout from SSI or signed statement from caseworker with applicant's name, social security number, hire date indicating the individual received SSI benefits any time in the 60 days ending on the hire date. Statements should include caseworker's telephone number and address.
 9. Category I. Welfare-to-Work Long Term Assistance Recipient. Caseworker's signed statement with the applicant's name social security number, hire date and a statement that the new hire was on welfare for the required number of months before the employment start date. Also included should be the caseworker's telephone number and address.
 10. Employer Information is Incomplete. When the employer submits an IRS Form 8850 with complete applicant information, but with some of the employer information in question, (e.g., a transposed FEIN number), the SESA may request the corrected information and consider the IRS Form 8850 as received in a "timely" basis.
 11. IRS Form 8850 Denied for Failure to Submit in a Timely Manner. In cases where a miscount of days due to weekend or holiday days, the employer may submit a letter addressing the fact and requesting review of that record. In the case of a lost IRS Form 8850, an employer may submit a copy

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of the IRS Form 8850 with proof of the mailing date (e.g., the original of a U.S. Postal Service (USPS) "Certificate of Mailing" (PS Form 3817)).

- I. Program Reporting Requirements. In order to effectively meet its management responsibilities and to have adequate data with which to evaluate the Work Opportunity and Welfare-to-Work Tax Credits, ETA must impose minimum reporting requirements upon the DLAs:
1. On a quarterly basis, DLAs must extract data either from Conditional Certifications, ICFs, and Certifications. The data sources will depend upon each State's processing procedures. This information is reported to the USES on a quarterly basis.
 2. Data will be forwarded to the USES, National Office, through the appropriate Department of Labor(DOL) Regional Office in three separate reports, consisting of the following sets of data:
 - a. The number of eligibility determinations (Conditional Certifications) issued, by participating agency and by target group. **Note.** Because some individuals may be eligible for both tax credits, thereby receiving dual certifications, all data must be reported by dual certification, as well as by WOTC and WtW tax credit (See "Clarifications for Quarterly Report No. 2 Instructions," Appendix III);
 - b. The certification workload and characteristics of certified individuals by target group, hourly wage and occupation reported by dual certification, as well as by WOTC and WtW tax credit; and
 - c. Results of agency quarterly verification (quarterly audits of Certifications made) activities, including universe size, sample size,

and the number and percentage of
ineligible **D R A F T** Certifications identified.

J. Reporting Procedures. All WOTC/WtW reports are prepared quarterly during the calendar year and will include information collected from throughout the State. Data will be reported beginning with a zero balance for each reporting quarter. This change from the accumulation of data throughout the fiscal year was necessary because of additional requirements to respond to various inquiries using quarterly data in various annualized configurations. An original and one copy of each report will be forwarded to the Regional Office, Attention: Office of Administrative Support. One copy only will be sent to the USES National Office, via ORM, Attn.: USES/WOTC & WtW/TEESS.

1. Submitting the Reports. Reports will be prepared using ETA Form 9057, "Conditional Certifications Issued," Work Opportunity and Welfare-to-Work Tax Credits, (Report #1); ETA Form 9058, "Certification Workload and Characteristics of Certified Individuals," Work Opportunity and Welfare-to-Work Tax Credits, (Report #2); and ETA Form 9059, "Verification Results," Work Opportunity and Welfare-to-Work Tax Credits, (Report #3). They will be submitted as follows:

a. ETA Forms 9057 and 9058 (Reports #1 and #2) will be mailed so that the Regional Office receives them not later than 20 calendar days following the closing date of the report period. The Regional Office will prepare a Regional summary using the same two forms to consolidate data received from all DLAs in the Region, attach one copy of each State's report (not letter of transmittal) and forward to the USES National Office, Attention: ORM/TEESS, by the 25th calendar day of the month following the closing date of the report period.

b. ETA Form 9059 (Report #3) will be mailed so that the Regional Office

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receives it by the 20th calendar day of the 5th month following the closing date of the report period. The Regional Office will forward one copy of reports for each DLA to the National Office, ORM/TEESS, by the 25th calendar day of the 5th month.

States will select the statistically random sample and initiate verification activities quarterly, but not later than the month immediately following the report period. The delay in reporting the results allows for the lag-time in obtaining UI wage records commonly used in verifying certain employer and employee information. The delay will afford the States ample time to review documents, verify information sources, and, if necessary, verify a second sample of data.

2. Completing the Forms. Complete the items common to all three reports uniformly and insure that all information is legible on all forms:
 - a. State. Enter the name of the State.
 - b. Period Ending. This is the last day covered by the report; e.g., September 30, 1997.
 - c. Name and Title of Responsible Official. The name and title of the person authorized to sign the report.
 - d. Signature. Responsible official's signature.
 - e. Date Signed. The date the report is signed by the responsible official.
 - f. General Approach. Prepare reports based on data from processing forms; e.g., PSN/CRs, ICFs, Conditional Certifications and Certifications. Include the number of individuals served in each target group, data on tax credits authorized, starting

wages and occupations in which
individuals were hired.

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- g. ETA Form 9057 - Report #1. This report is designed to collect the number of Conditional Certifications (ETA Form 9062s) issued during each reporting quarter by the DLAs and participating agencies and by target group. The report should be prepared using data collected from ETA Form 9062.

This report also reflects the changes enacted by P.L. 105-34. In addition to reauthorizing the WOTC and expanding WOTC target groups to include certain SSI recipients, P.L. 105-34 also established a second tax credit, the Welfare-to-Work Tax Credit, for certain long-term IV-A recipients. Therefore, this report collects quarterly data on conditional certifications by each tax credit. Further, because some individuals may be eligible for both tax credits, and because such individuals must be issued dual certifications, all data collected on conditional certifications must be reported by dual certification, as well as by WOTC and WtW tax credit.

The report is divided into two sections. The first section, entitled "I. By Issuing Agency," reports the number of WOTC conditional certifications (CCs), the number of WtW CCs, and the number of dual (WOTC/WtW) CCs issued by SWAs and all participating agencies (boxes 1-11).

Where no CCs have been issued, please enter "0."

The second section, entitled "II. By WOTC Target or Long-term IV-Recipient Group," reports the same information -- the number of WOTC CCs, the number of WtW CCs, and the number of dual (WOTC/WtW) CCs, by WOTC target group

and by long-term IV-A recipient
(boxes 12-22).

Where no CCs have been issued, please enter "0."

The quarterly and year-to-date (cumulative) totals in Sections I (boxes 10-11, respectively) should equal the quarterly and year-to-date (cumulative) totals in Section II (boxes 21-22, respectively).

NOTE: This form no longer reports conditional certifications by type, i.e., by whether they are original or revalidated (box 3 of ETA 9062). Therefore, counts of CCs in boxes 1-9 and 12-19 should not distinguish between original and revalidated CCs; for example, if in the first quarter of fiscal 1998, an agency issued 70 original and 30 revalidated CCs, that agency issued 100 CCs.

Note also that this form no longer reports conditional certification invalidations.

- * h. ETA Form 9058 - Report # 2. PART I of this report has been redesigned to clarify and simplify data reported on certifications and to indicate DLA/SESA workload during each reporting quarter. Part II continues to collect data on selected characteristics of individuals with tax credit certifications.

*Background. The purpose of ETA Form 9058 (Rev. June 2001), is to provide State Workforce Agencies (SWA's) with a standardized reporting format which accurately reflects the Work Opportunity Tax Credit (WOTC) and Welfare-to-Work Tax Credit (WtW) program activity levels and outcomes. It is important for SWA's to maintain programmatic reporting procedures that account for each tax request

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(IRS Form 8850) received and its subsequent outcome (issuance of a tax certification or issuance of a denial notification). A properly completed ETA Form 9058 (Rev. June 2001) accurately reflects program use at the employer level, program outcome activity at the SWA level, and the level of any programmatic backlog that may exist. To ensure that the WOTC/WtW program can be accurately evaluated at the national level, it is critical that all SWA's report in a standardized manner.

The **proposed** revisions, to ETA Form 9058 (Rev. June 2001), build on the framework established by the existing ETA Form 9058 (Rev. 03/98). The form itself remains largely the same. However, technical changes have been made to Part I, to ensure consistent and accurate reporting of all WOTC/WtW activities during the reporting quarter. Part II reflects adjustments which may become necessary to ensure conformity with changes in federal minimum wage requirements.

SWA's should be aware that transition to the revised ETA -9058 (Rev. June 2001) may artificially inflate the number of New Request reported in Part I, Item (C) for the initial report period since it will capture those request (IRS-8850) which may have been received by a SWA prior to the reporting quarter, but for some reason not entered into the SWA's WOTC/W2W system.

Instructions for completing this form.

State Enter the name of the state submitting ETA Form 9058.

Quarter Ending Enter the ending

date of the quarter represented by
ETA Form 9058.

Part I. Certification Workload.

SWA's must identify from Part I, Item F on the previous reporting quarter's ETA Form 9058 (Rev.03/98) the number of request (IRS Form 8850) determined to be Incomplete or Needing Action, as defined below:

- (A) **Number of Request Incomplete** Enter the total number of request (IRS Form 8850) received by the SWA prior to the beginning of the current report period, but for which no applicant eligibility determination action (excluding the 48-hour review) has been taken. This total is to be entered into Part I, Item (A) of ETA Form 9058 (Rev.??/??)
- (B) **Number of Request Needing Action** Enter the total number of request (IRS-8850) received by the SWA prior to the beginning of the current report, but for which no review and or action was taken to determine applicant eligibility. This total is to be entered into Part I, Item (B) of ETA-9058 (Rev. ??/??).
- (C) **New Request** Enter the total number of request (IRS Form 8850) received by the SWA during the current reporting quarter. **Note:** Some states may have received request (IRS Form 8850) that were not previously recorded and/or reported on any prior quarterly report ETA-9058 (Rev. 03/98) for various reasons. It is important for the SWA to report all requests (IRS Form 8850) received, therefore, any request received outside of the current reporting quarter which have not previously been reported should be included with the number of request received during the

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current reporting period and that total entered as the number of New Request. This total is to be entered into Part I, Item (C) of ETA-9058 (Rev.??/??).

- (D) **Total Request to be Processed**
Enter the sum of Items A, B & C. This total represents the number of requests (IRS Form 8850) received by the SWA, which are available to be processed. This total is to be entered into Part I, Item (D) of ETA Form 9058
- (E) **Requests Certified** Enter the total number of WOTC certifications issued during the current report period, plus the number of WtW certifications issued during the current report period which are not the product of a dual certification, (WtW Only).
- (F) **Requests Denied** Enter the total number of requests (IRS Form 8850) denied by the SWA during the current report period.
Note: A denial is a request (IRS Form 8850) determined by the SWA to be ineligible for both tax credits
- (G) **Number of Requests Incomplete**
Enter the total number of requests (IRS Form 8850) received and reviewed by the SWA, but for which the SWA could neither approve or deny due to such things as but not limited to; the need for additional eligibility documentation for which the SWA has made a formal request to the employer, authorized tax consultant, or other third party entity; ETA Form 9061 not submitted, etc. **Note:** This value will also be entered in Part I, Item A, of the subsequent quarterly report ETA Form 9058 (Rev. June 2001).
- (H) **Number of Request Needing Action**
Enter the number of request (IRS

Form 8850) received by the SWA, but for which no review and or action was taken to determine applicant eligibility. **Note:** This value will also be entered in Part I, Item B, of the subsequent quarterly report ETA-9058 (Rev.??/??).
 Part I, Item H is the sum of Item D, minus Item E, minus Item F, minus Item G.

Part I Completion Formula:

$$\text{Item A} + \text{B} + \text{C} = \text{D} - \text{E} - \text{F} - \text{G} = \text{H}$$

Part II. Characteristics of Certified Individuals by Tax Credit.

This part is divided into three sections (Section I, Section J, and Section K).

Section I, reflects the number of request (IRS Form 8850) certified by the SWA during the current report period by WOTC/WtW target groups. Section J, reflects the number of request (IRS Form 8850) certified by the SWA during the current report period by starting hourly wage. Section K, reflects the number of request (IRS Form 8850) certified by the SWA during the current report by occupation.

Section I

Section I, Column (a) Enter the total number of certifications, by target group, issued by the SWA during the current report period, which resulted from the issuance of a conditional certification.

Section I, Column (b) Enter the total number of WOTC certifications (including dual certifications) issued by the SWA during the current report period, by target group.

Section I, Column (c) Enter the total number of WtW (**only**) certifications issued by the SWA

during the current report period.

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Section I, Column (d) Enter the total number of WOTC certifications issued by the SWA during the current report period, by target group, which **are** the product of a dual certification.

Section I, Line #10 Enter the sums of columns (a), (b), (c) & (d).

Note: The total of Section I, Line #10, columns (b) & (c) should equal the total entered in Part I, Item E, Requests Certified.

Section I, Line #11 Enter the cumulative federal program year-to-date totals of columns (a), (b), (c) & (d). **Note:** The first quarterly report of the federal program year (October 01/December 31), the totals of Section I, Line #10 and Line #11 should be the same.

Section J

Section J, Column (a) Enter the total number of WOTC certifications issued by the SWA during the current report period, by starting hourly wage. **Note:** The total for Section J, Column (a), Line #18 is the sum of the column and must equal the total for Section I, Column (b), Line #10.

Section J, Column (b) Enter the total number of WtW certifications (including duals) issued by the SWA during the current report period, by starting hourly wage. **Note:** The total for Section J, Column (b), Line #18 is the sum of the column and must equal the totals for Section I, Column (c) & (d), Line #10.

Section K

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Section K, Column (a) Enter the total number of WOTC certifications issued by the SWA during the current report period, by occupation. **Note:** The total for Section K, Column (a), Line #28 is the sum of the column and must equal the total for Section I, Column (b), Line #10.

Section K, Column (b) Enter the total number of WtW certifications (including duals) issued by the SWA during the current report period, by occupation. **Note:** The total for Section K, Column (b), Line #28 is the sum of the column and must equal the totals for Section I, Column (c) & (d), Line #10.

Name and Title of Responsible Official Enter the name and title of the authorized signatory official.

Signature Enter the signature of the authorized signatory official.

Date Enter the date of the authorized signatory official's signature.

Convert as follows:

<u>Unit of Time</u>	<u>Calculated Hourly Wage</u>
Day	Amount divided by 8
Week	Amount divided by 40
Month	Amount Divided by 172

* The occupational data reported in boxes 19-26 are derived from the job titles reported on ETA Forms 9061 or 9062. To prepare this report, the job titles for certified individuals should be assigned the following one-digit DOL [Dictionary of Occupational Titles \(DOT\) through the end of Program Year \(PY\) 2001](#). These codes correspond to the 5 Occupational Category labels as follows:

<u>Label</u>	<u>Code</u>
--------------	-------------

<input type="checkbox"/> Professional, Technical Managerial	D R A F T	0/1
<input type="checkbox"/> Clerical and sales		2
<input type="checkbox"/> Service		3
<input type="checkbox"/> Farm, Forestry, Fishery		4
<input type="checkbox"/> Processing		5
<input type="checkbox"/> Machine Trades		6
<input type="checkbox"/> Bench Work		7
<input type="checkbox"/> Structural		8
<input type="checkbox"/> Miscellaneous		9

The entry for each line will be a count of the certifications with the corresponding category.

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After the PY 2001 transition period granted to the states to stop using the DOT and start using the O*NET, SWAs/DLAs should start using the new families of occupations and their two-digit corresponding codes as illustrated in the following table.

<u>O*NET SOC JOB FAMILIES</u>		Code
<input type="checkbox"/> Management		11
<input type="checkbox"/> Computers		13
<input type="checkbox"/> Healthcare Support		31
<input type="checkbox"/> Food Preparation & Serving Related		35
<input type="checkbox"/> Bldg., & Grounds Cleaning & Maintenance		37
<input type="checkbox"/> Personal Care & Service		39
<input type="checkbox"/> Sales		41
<input type="checkbox"/> Office & Administrative Support		43
<input type="checkbox"/> Farming, Fishing, & Forestry		45
<input type="checkbox"/> Construction & Extraction		47
<input type="checkbox"/> Installation, Maintenance & Repair		49
<input type="checkbox"/> Production		51
<input type="checkbox"/> Transportation & Material Moving		53

i.

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Form 9059-Report #3. After all Certifications selected for the audit/verification sample are reviewed, the results of the review must be reported on ETA Form 9059.

ETA Form 9059 was designed to report the results of the quarterly audit of a **randomly chosen sample** (See Table - Sample Sizes, p. VII-77 in the Handbook) of all the certifications issued for that quarter. Pursuant to P.L. 105-34, as of October 1, 1997, the universe of certifications to be audited includes all Welfare-to-Work and dual (WOTC/WtW) certifications as well as all individual WOTC certifications issued for the reporting quarter.

- (1) Line 1 - Universe Size. Enter the total number of certifications issued during the reporting period. This number should be the same as the total number of certifications reported in Part I., Certification Actions (System Outputs), Column D of

ETA Form 9058 (Report No. 2) For the same quarter.

- (2) Line 2 - Sample Size Enter the total number of certifications in the audit sample for which verification data was acquired for the audits. This number must equal or exceed the appropriate number shown in the table (p. VII-76) on sample size in the Handbook.
- (3) Line 3 - Number Invalid. Enter the number of certifications in the sample which, after verification, were determined to be invalid.
- (4) Line 4 - Percent Invalid. Calculate and enter the percentage of the sample determined to be invalid using the following formula:

Number of Invalidations	
Sample Size	X 100

Note: If this percentage is less than 5 percent, do not complete lines 5 and 6. If the percentage of Line 4 is 5 percent or more, a second sample equal in size to the first must be drawn and verified in the same manner. The Number Invalid and Percent Invalid from the second sample shall be entered in Lines 5 and 6. If the Percent Invalid in the second sample is 5 percent or more, corrective action shall be initiated according to instructions in Chapter VII of the Handbook.

- (5) Lines 7-12 must be completed to perform a separate quarterly verification for economic determinations. (Ex-Felon only)
- (6) Line 7 - Universe Size. Enter the total number of certifications issued for

D R A F T the Ex-Felon target group during the reporting period. This number should be the same as the total number of certifications reported in Part II., Sec. (1), Line 3 of ETA Form 9058 (Report No. 2) for the same quarter.

(7) Line 8 - Sample Size.
Enter the total number of certifications in the audit sample for which verification data was acquired for the audits. This number must equal or exceed the appropriate number shown in the table (p. VII-63) on sample size in the Handbook.

(8) Line 9 - Number Invalid.
Enter the number of certifications in the sample which, after verification, were determined to be invalid.

(9) Line 10 - Percent Invalid
Calculate and enter the percentage of the sample determined to be invalid using the following formula noted above. If this percentage is less than 5 percent, do not complete lines 11 and 12. If the percentage of Line 10 is 5 percent or more, a second sample, equal in size to the first must be drawn and verified in the same manner.

Note: If the Percent Invalid in the second sample is 5 percent or more, corrective action shall be initiated according to instructions

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- (10) Lines 11 & 12 - Percent Invalid & Number Invalid.
Enter corresponding number from the second sample.
- (11) Line 13 - Name and Title of Responsible Official; Signature and Date Signed.
Print or type complete name of official reporting the verification results; Signature, sign your name, legibly and enter the date (month, day, year) in which report was completed and signed.

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I. Paperwork Management

1. Forms. The following WOTC Forms must be used without modification:

- ❖ IRS Form 8850, The Work Opportunity Tax Credit & Welfare-to-Work Tax Credit Pre-Screening Notice and Certification Request.

Note: See Chapter VII, Section A, Item 1 for exceptions related to use of this form);

- ❖ ETA Form 9061, The Individual Characteristics, Work Opportunity and Welfare-to-Work Tax Credits;
- ❖ ETA Form 9062, Conditional Certification, Work Opportunity and Welfare-to-Work Tax Credits;
- ❖ ETA Form 9057, Conditional Certifications by Target Group and Participating Agency, Work Opportunity and Welfare-to-Work Tax Credits - Report #1;
- ❖ ETA Form 9058, Certification Workload and Characteristics of Certified Individuals, Work Opportunity and Welfare-to-Work Tax Credits - Report #2; and,
- ❖ ETA Form 9059, Verification Results, Work Opportunity and Welfare-to-Work Tax Credits - Report #3. States have the option of using or modifying the following forms:
- ❖ ETA Form 9063, Employer Certification, Work Opportunity and Welfare-to-Work Tax Credits; and,

❖ **D R A F T**
EIA Form 9065, Agency
Declaration of Verification
Results, Work Opportunity and
Welfare-to-Work Tax Credits.

The appendices of this handbook provide a suggested format designed to simplify the Conditional Certification and Certification processes. States may use the suggested form layout and design or may use one of their own, provided that the chosen form includes all the required information and satisfies the requirements of documentation as required.

- *2. Reporting. The reporting and data collection requirements in this Third Edition of the WOTC and WtW Tax Credits' Handbook have been approved by the Office of Management and Budget (OMB) according to the Paperwork Reduction Act of 1995. The OMB approval number (OMB No. 1205-0371) is effective through June 30, 2002.

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APPENDIX I - * Current Legislation

1. Job Creation and Worker Assistance Act of 2002 (P.L. 107-147). Sec. Xxxxxx.
2. Tax and Trade Relief Extension Act of 1998, part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, P.L. 105-277, Sec.1002, "Work Opportunity Tax Credit" and Sec. 1003 Welfare-to-Work Tax Credit."
3. *Conference Report to H.R. 4328, Making Omnibus Consolidated and Emergency Appropriations for Fiscal Year 1999.*
4. *Taxpayer Relief Act of 1997, P.L. 105-34, Title VI. Extensions, Sec. 603. "Work Opportunity Tax Credit" and Title VIII, Sec. 801. "Incentives for Employing Long-Term Family Assistance Recipients."*
5. *Small Business Job Protection Act of 1996, P.L. 104-188, Subtitle B -- Extension of Certain Expiring Provisions, Sec. 1201. "Work Opportunity Tax Credit."*
6. *Internal Revenue Code of 1986, Secs. 39(a), 51, & 51A, as amended, 26 USC § 51 and 51A.*
7. *Food Stamp Act of 1977, USC, Sec. 2020.*

APPENDIX II - WOTC/WtW Administrative/Processing Forms

1. ETA Form 9061 - Individual Characteristics Form (ICF), Work Opportunity and Welfare-to-Work Tax Credits.
2. ETA Form 9062 - Conditional Certification (CC), Work Opportunity and Welfare-to-Work Tax Credits.
3. ETA Form 9063 - Employer Certification (EC), Work Opportunity and Welfare-to-Work Tax Credits.
4. ETA Form 9065 - Agency Declaration of Verification Results (ADVR), Work Opportunity and Welfare-to-Work Tax Credits.

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APPENDIX III - WOTC/WtW Report Forms

- 1. ETA Form 9057 - Report #1: Conditional Certifications Issued, Work Opportunity and Welfare-to-Work Tax Credits;
- * *2. ETA Form 9058 - Revised Report #2: Certifications' Workload and Characteristics of Certified Individuals, Work Opportunity and Welfare-to-Work Tax Credits;
- *3. Revised Instructions *for Quarterly Report No. 2*, ETA Form 9058;
- 4. ETA Form 9059 - Report #3: Verification Results, Work Opportunity and Welfare-to-Work Tax Credits.

APPENDIX IV - Miscellaneous

- * 1. Lower Living Standard Income Levels (LLSILs)
- * 2. Federally Designated Empowerment Zones & Enterprise Communities, 1997
- * [3. Federally Designated Renewal Communities, 2000](#)
- 4. Memorandum of Understanding Between Job Corps and USES/ETA
- 5. Job Corps Participating Agency Codes
- 6. Sample Letter To Be Sent to Employer (Notice of Invalidation (NOI) of Certification Work Opportunity and/or Welfare-to-Work Tax Credit(s))
- 7. Policy Resolution/Appeals Submission -- Suggested Format (WOTC/WtW Program Inquiry)

APPENDIX V - IRS Publications/Forms

- 1. IRS Form 8850, APre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits.@
- 2. IRS Form 2848 and Instructions, "Power of Attorney and Declaration of Representative."
- 3. IRS Publication 334, 1998 Returns, "[Tax Guide For Small Business](#)."
- 4. IRS Bulletin - No. 1997-41, October 14, 1997, Notice 97-54, "Work Opportunity Tax Credit and Welfare-to-Work Tax Credit, pp. 7-8.

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5. IRS NEWS Release - IR 96-41, September 26, 1996,
"Employers Can Get Credit for Certain New Hires."
 6. IRS Bulletin - No. 1996-42, October 15, 1996,
"Work Opportunity Tax Credit: Notice of Transition Rule
Under Section 51 of the Code," Notice 96-52, page 8.
 7. IRS Bulletin - No. 1996-46, November 12, 1996,
"Date of Birth, IRS Form 8850," Announcement 96-116,
page 12.

(Sample Letter To Be Sent To Employer - Return
Receipt Requested)

**NOTICE OF INVALIDATION OF CERTIFICATION
WORK OPPORTUNITY AND/OR WELFARE-TO-WORK TAX CREDITS**

Re: Employer's Name
IRS Identification No.:
Address:

Dear (Employer's Name):

The individual identified above was certified as meeting the eligibility criteria of the Work Opportunity Tax Credit Program, and/or the Welfare-to-Work Tax Credit, Section 51 and 51A respectively of the Internal Revenue Code 1986, as amended) on (date of certification). Subsequent review, however, reveals that this employee, (name of employee) is ineligible for purposes of the WOTC____ or the WTW____ tax credit. Accordingly, you are, hereby, notified that the Certification for the above named employee has been invalidated, effective upon receipt of this notice. A copy of this notice has also been forwarded to the Internal Revenue Service in Washington, D.C. for their records.

(Authorized SWA Official's Signature)

cc: Internal Revenue Service
Participating Agency
SWA

File

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(Policy Resolution/ Appeals Submission Suggested Format)

D R A F T

WORK OPPORTUNITY AND WELFARE-TO-WORK TAX CREDITS' INQUIRY

REGION: _____ STATE: _____ DATE: _____

CONTACT PERSON: _____

TELEPHONE #: _____

REFERENCES:

(You may cite as many as a re necessary. For example: Handbook, Legislation, IRS Rules/Notices/Publications, etc.)

ISSUE:

RESOLUTION/COMMENTS:

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